LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

ANNUAL REPORT | 2006-2007

COMPASSION
EQUITY
IMPARTIALITY
RESPECT

LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

The logo of the Québec Ombudsman is a variation on the classic scales of justice, which symbolizes the search for balance between competing rights. Normally, the scales represent justice as rendered by the courts and administrative tribunals.

On one level, then, the logo symbolizes the desire for justice represented by one of the pans of the scale. At another, the "P" replacing the other pan symbolizes the Protecteur du citoyen. The "P" also refers to the highest level (palier) of justice-equity. Equity means applying the law with a human face.

The values guiding the Protecteur du citoyen reflect its mandate. Serving the population since 1969, it defends the basic rights of justice, equity, respect, transparency, and impartiality in a democratic society.

The Ombudsman is entirely independent from the Government of Québec. The Ombudsperson is named by the National Assembly, to whom she reports. The Ombudsman analyzes situations with complete objectivity and without prejudice with regard to the public service or citizen.

This publication is printed on paper comprised of 30% recycled fibre.

The term "Québec Ombudsman" refers to activities of the institution itself, while that of "Ombudsperson" refers to the personal interventions of the incumbent.

The masculine form in this text is used to designate both men and women.

Version française disponible sur demande.

Copyright – Bibliothèque nationale du Québec, 2007
ISBN: 978-2-550-49942-8
ISSN: 1189-9522

Québec City, June 2007

Mr. Michel Bissonnet
President
National Assembly
Parliament Building
Québec City (Québec) G1A 1A4

Mr. Speaker,

In accordance with the provisions of section 28 of the *Public Protector Act*, I am honoured to hereby submit the Québec Ombudsman's 37th Annual Report for the year 2006-2007. Given our institution's extended jurisdiction, this document incorporates the report produced under section 38 of an *Act respecting the Health and Social Services Ombudsman*.

The institution's annual management report is also included in this report.

Sincerely,

The Ombudsperson,

R. Saint-Germain

Raymonde Saint-Germain

Table of Contents

Ombudsperson's Message ... 9

1. 2006-2007 mission and results ... 15

2. The Public Administration ... 27

The government departments ... 31

The Ministère de l'Agriculture, des Pêcheries et de l'Alimentation ... 33

The Ministère du Développement durable, de l'Environnement et des Parcs ... 37

The Ministère de l'Éducation, du Loisir et du Sport ... 43

The Ministère de l'Emploi et de la Solidarité sociale ... 53

The Ministère de la Justice ... 65

The Ministère des Ressources naturelles et de la Faune ... 75

The Ministère de la Sécurité publique ... 79

The Ministère des Transports du Québec ... 109

Revenu Québec ... 113

Agencies ... 129

The Commission de la santé et de la sécurité du travail ... 131

The Curateur public du Québec ... 143

The Financière agricole du Québec ... 153

The Régie de l'assurance maladie du Québec ... 155

The Régie des rentes du Québec ... 159

The Société de l'assurance automobile du Québec ... 165

List of recommendations ... 183

3. Health and Social services ... 195

The rights of users with regard to health and social services ... 199

The Ministère de la Santé et des services sociaux ... 201

Control of service quality ... 203

Establishments ... 215

- Hospital centres ... 219
- Local community service centres (CLSCs) ... 225
- Nursing homes and long-term care establishments ... 233
- Youth centres ... 239
- Rehabilitation centres ... 245
- Other bodies ... 251

Specific issues 255
- Risk management on nosocomial infections 259
- Persons with mental health problems: full citizens 263
- The use of force, isolation and chemical substances as means to control people 271
- Rates for private and semi-private rooms in hospital centres 277
- Access to Physical therapy 281

4. Parliamentary Watch 287

Appendices 295
1. Definitions to better understand the data 297
2. Origin of complaints received by public administrations, based on the citizen's administrative region 299
3. Origin of complaints and reports received in the health and social services field, based on the sociosanitary region of the body involved 300
4. Complaints and grounds of complaints reviewed by the department and organization, based on the results 301
5. Complaints reviewed in the health and social services field, by body 304
6. Grounds of complaints reviewed in the health and social services field, by category of grounds 305
7. Reports reviewed in the health and social services field, by program/service 307

Message from the Ombudsperson

The Québec Ombudsman's mission is to prevent and correct prejudices resulting from acts or omissions by departments and agencies of the Government of Québec, including the health and social services network. Acting on behalf of all Quebecers, the Ombudsman sees to it that each and every citizen receives quality services in keeping with his or her rights.

Every day, the Québec Ombudsman works to correct injustices by striving to reestablish the balance between individuals—some of whom are alone and without resources—and the public service with its overwhelming resources and powers. This task calls for even-handedness and sustained attention to problems revealed in the investigation of individual complaints and reports. It also assumes a particular awareness of prejudicial or potentially risky situations. So it is that I feel compelled, both by my activities and actions in 2006–2007 and by the studies carried out by my team, to tackle issues relating to respect for the public and the human element in the provision of public services.

2006-2007

In 2006–2007, I undertook a tour of Québec's regions in order to get in touch with people, community organizations, and representatives from the government and the health and social services network. I met with users' committees of health and social service centers and rehabilitation centers for people with intellectual disabilities; representatives from long term care centers, youth centers, and regional agencies; and local and regional complaints commissioners. I also had conversations with regional officials from government ministries and agencies; correctional staff; and representatives of organizations that assist crime victims, accident victims, the disabled, and those who suffer from mental health problems.

At the same time I wanted to hear directly from people seeking my assistance in order to familiarize myself with their complaints and concerns. I therefore got directly involved with my team in the complaints reception process.

All these experiences have given me the opportunity to deepen my understanding of the day-to-day realities of citizens who deal with the public service or are civil servants.

The public service must constantly adjust to various phenomena that inevitably influence its actions. Our current situation is characterized by constant pressure on government finances, an aging population, and the position of vulnerability of certain groups. These factors can affect the demand, availability, and funding of services while forcing organizations to constantly update their operating procedures. Under such circumstances, maintaining quality services while upholding respect for people's rights takes on an additional degree of complexity.

Clearly, some of the prejudicial situations dealt with by the Ombudsman arise from a shortage of staff and funding. In such circumstances, suitable remedies cannot always be achieved without additional expenditures. This is the case, for example, with problems of access to medical services in certain regions.

That said, as we look back on 2006–2007, we observe that the majority of complaints and wrongs dealt with by the Ombudsman arise from the failure to observe the basic principles of quality service—respect, reasonableness, and equity. Concretely, citizen complaints are about unfair procedures, restrictive interpretations of rules, insufficient information, excessive delays, failure to consider the human dimension, and the refusal to adapt policies and programs to the special situations and needs of individuals.

These shortcomings can be observed both in government and in the health and social services network. They directly affect the quality of services and have a variety of consequences for individuals. For example, a lack of information can impinge on people's ability to assert their rights, make informed decisions, or exercise administrative remedies. Delays can interfere with necessary medical treatment, while late payment of compensation benefits impacts people's income.

There are a number of points of convergence—common denominators that emerge among the frustrations people report to us. Among them, the human element in public service provision, particularly as experienced by society's most vulnerable, raises issues that merit special attention.

THE HUMAN ELEMENT

Respect for people is expressed in many ways. Showing empathy and compassion, communicating effectively, encouraging people to fully exercise their rights, and being sensitive to special circumstances are all signs of a considerate and open attitude. People call on us when the public service has, unfortunately, failed to uphold these essential and fundamental principles.

I want to make it clear that, as a rule, government employees and health and social services staff comport themselves very professionally in interacting with the public. My work over the last year has given me the opportunity to appreciate the ability, dedication, and commitment of the majority to constantly improve the quality of the services they provide. However, every incidence of disrespect or inappropriate behavior, however isolated, shows that there is room for improvement and that nothing should be taken for granted.

It seems therefore that the public service ought to pay more attention to individuals unfamiliar with the machinery of government. It should also show greater consideration for those who have experienced or are experiencing difficulties such as a loss, an assault, an accident, and for those whose faltering health renders them emotionally fragile. Public servants should take time to provide detailed and personalized explanations of the government's role, programs, and decisions. Systematically monitoring the effects of public service actions on people's lives is also fundamental to the active prevention of harmful situations.

Furthermore, the public service needs to make a greater effort to establish the necessary conditions for the effective exercise of the rights guaranteed to citizens. For example, our analyses show that users of the health and social services system are still largely unfamiliar with their rights. Many people are simply unaware that they have the right to choose the facilities where they are treated, or to be informed of any incident in the course of their treatment that could affect their health.

RESPECT FOR THE MOST VULNERABLE

Although it always import to carefully weigh the effects of public service priorities and decisions on people's lives, it is even more so for those who are, for one reason or another, particularly or entirely dependent on public services in important aspects of their lives. The Ombudsman will pay particular attention to the approach adopted by public services toward such individuals.

I will take a special interest in persons with mental health problems. These individuals are found in every segment of the population, including the clientele of the health care system, youth centers, correctional institutions, and aid organizations for crime victims. They are more likely than others to experience problems in making themselves understood by the public servants and, consequently, in obtaining the services and care they need.

I will also pay close attention to the experiences of the elderly, specifically those whose position is vulnerable. Seniors who are frail or isolated and lack family support are particularly dependent on public services to ensure their quality of life.

In addition, I will pay particular attention to the fate of those whose living environment is under government responsibility. By these I mean, among others, people in long term care centers, girls and boys in youth centers, incarcerated people as well as their victims, their families, and loved ones. These individuals are more closely dependent on the government for the care and services they need.

Public services are particularly important and fundamental for these groups. An acute sensitivity to their specific needs and the flexibility to adapt to their situations are essential to their wellbeing.

BALANCE BETWEEN QUALITY AND THE USE OF PUBLIC FUNDS

Genuine respect for citizens must manifest itself in concrete actions to help them benefit fully from the protections offered by the government and the law. It also means taking every opportunity to make the system more human and more sensitive to the public's needs. In this area, additional resources are not always sufficient to achieve improvement. What is needed is an openness to those we are responsible for helping and the development of a culture of service.

In terms of accountability, these ideas go beyond the progress already accomplished with the *Service Statement* and similar undertakings. It is a question of making quality of service the object of systematic evaluation and public service accountability, as is already the case for efficiency and budgetary impact.

Adapting to the present situation demands that all public servants exercise heightened vigilance as they seek to balance the provision of quality services and the responsible use of public resources. Even as they consider the collective good and the need to attend to several priorities at once, public servants must always act according to certain basic standards. Social, demographic, and economic issues cannot be allowed to serve as an excuse for a decline in or lack of respect for individuals and quality of services, particularly when it comes to the most vulnerable.

The Ombudsman will take all this into account in examining impartially the situations brought to its attention. Its analysis and interventions will consider the individual's needs, expectations, and best interests, as well as the context influencing the actions of the public service.

Moreover, I count on the collaboration of all departments and agencies of government and the health and social services network. The respect we owe all citizens and our concern for the most vulnerable among them demand that we work together for the continued improvement of public services without taking anything for granted.

2006-2007
Mission and results

1

The mission of the Québec Ombudsman

The Québec Ombudsman is mandated, under the *Public Protector Act* and, since April 1, 2006, under *An Act respecting the Health and Social Services Ombudsman*, to ensure that citizens' rights are respected, by notably intervening with Québec public agencies and departments, with the various bodies constituting the health and social services network, and with private homes for the elderly. It intervenes with the purpose of remedying situations that are prejudicial to a physical or moral person or group of persons. If and when necessary, it will make recommendations to the bodies concerned regarding measures for correcting the errors or instances of negligence, abuse or failure it has observed.

The Québec Ombudsman serves as the ombudsman for all Québec citizens. An ombudsman is a person appointed to defend citizens' rights vis-à-vis government departments and agencies, and other public authorities. Given its jurisdiction, the Québec Ombudsman is the Ombudsman for industrial and motor vehicle accident victims, as well as for crime victims and victims of judicial error. Under its expanded mandate, the Ombudsman also protects users of the health and social services network, which includes youth and rehabilitation centres. The Ombudsman also protects individuals who are detained, ensuring their rights are upheld during their incarceration. It is also an Ombudsman for citizens who request licences or authorizations from various government departments or agencies, as well as for social welfare beneficiaries and many others.

Its jurisdiction over the entire Québec public administration allows it to consider issues that involve several departments or agencies, while its expertise with regard to the health and social services network enables it to fully exercise its jurisdiction as concerns the Ministère de la Santé et des Services sociaux, the Régie de l'assurance maladie and other departments and agencies active in this area.

In performing its mandate, the Québec Ombudsman grants priority to the essential rights guaranteed to citizens under the various charters of rights, as well as by the provisions of *A Public Administration Act*, *An Act respecting administrative justice*, the *Act respecting health services and social services*, and any other legislation. Among these rights, we must stress the right of citizens to quickly receive the quality services to which they are entitled, the right to be adequately informed, and the right to be treated with respect and dignity at all times.

Appointed by parliamentarians from all political affiliations, the Québec Ombudsman reports solely to the National Assembly. It can therefore carry out its duties independently, and in an impartial and neutral fashion.

The *Public Protector Act* and *An Act respecting the Health and Social Services Ombudsman* grant it the authority required to review complaints and execute its interventions. Thus, it can access any document held by a department, public agency or health and social services network organization, and it also has the power to question anyone whom it feels can shed light on the issue being reviewed.

Under its mandate, the Québec Ombudsman has dual objectives: to protect persons and groups, and to correct any errors or instances of injury involving them individually or collectively. It also helps strengthen democracy and the state of law, as well as ensure improvement of the services offered to citizens. Its actions, unlike those of the courts, can help citizens avoid having to rely on judicial or administrative measures, which can often prove taxing and lengthy. While not a replacement for the court system, it can sometimes help resolve certain disputes quickly, informally and at a lesser cost.

QUÉBEC OMBUDSMAN ACTIONS

INDIVIDUAL COMPLAINTS AND NOTIFICATIONS

The Québec Ombudsman receives, investigates and handles complaints from citizens, be they natural or legal persons, groups or partnerships. These persons contact it because they believe they have been prejudiced by an act or omission committed by a public department or agency over which the Québec Ombudsman has jurisdiction.

Likewise, it receives, investigates and handles complaints concerning the rights of users who receive services delivered by the health and social services network. Except in special cases, this function is exercised during a second phase and as a last resort. In other words, the complaints it receives have already been reviewed at the local level, by local service quality and complaints commissioners or by regional commissioners. The Québec Ombudsman is not authorized, however, to evaluate or monitor the quality of medical, dental or pharmaceutical services dispensed.

It also accepts complaints filed on behalf of a person by a third party that has witnessed an error, injustice or abuse. It can also act on its own initiative if it feels that a citizen or citizen group has been the victim of prejudice. Once its review is completed, the Québec Ombudsman submits its conclusions to the body concerned, along with any applicable recommendations and corrective measures.

In its initiatives, the Québec Ombudsman focuses specifically on situations involving persons who are physically, mentally, psychologically or socio-economically vulnerable or fragile. It also intervenes directly whenever a user or person filing a complaint fears that he will be the victim of reprisals.

CORRECTIONS WITH A COLLECTIVE IMPACT

The Québec Ombudsman is also called upon to act from a collective perspective. The volume of complaints which it receives allows it to determine the likelihood of problems being systematic in nature.

Such problems are considered to exist whenever one or more complaints, taken together, attest to the existence of an issue involving various activity sectors, sometimes several programs. A comprehensive analysis of the factors involved in such a case generally results in recommendations for correcting the problems to the benefit of all of the persons affected.

PREVENTION AND INNOVATION

The Québec Ombudsman also acts with an eye to prevention. It can thus intervene to correct injurious situations and thereby avoid their repetition, by notifying a department, public agency, health and social services network organization or the government of any legislative, regulatory or administrative reforms it feels would be in the public interest.

It therefore reviews all draft bills and regulations, and issues amendment proposals aimed at bringing improvements whenever it deems it appropriate.

The Québec Ombudsman's authority consists of making recommendations, and the effectiveness of its interventions is primarily based on its ability to persuade and influence. If it considers that no satisfactory measures have been taken within a reasonable time frame, subsequent to having made a recommendation, it can so advise the government. It can also, if it deems it appropriate, unveil specific situations either in a special report or in its annual report to the National Assembly.

2006-2007
Statistical results

AN OVERVIEW OF STATISTICAL DATA

An Act respecting the Health and Social Services Ombudsperson includes specific requirements, the main one being that separate reports must be prepared for the review of all complaints and reports received.[1] The interventions of the Québec Ombudsman can ensue from a request received or ensue from its own initiative. Any person can file a report, but complaints can only be submitted by a user or the user's representative.[2]

The tables and graphs illustrate data on the organization's actions with regard to each of the two laws governing it.

The Québec Ombudsman reports on its conclusions following the review of complaint grounds and the grounds of various reports, and this:

once it is has received confirmation that agreed upon recommendations have been accepted;

if and when the body involved rejects the recommendations.

Prior to March 31, 2006, files that were pending until the health and social services network responded to the Québec Ombudsman's findings, or those where the latter was waiting to receive confirmation that the accepted recommendations had been implemented, were considered as being closed. This is no longer the case.

In the realm of public administration, files are only reported on once the applicable recommendation has been implemented. Exceptionally, circumstances where follow-up of recommendations was necessary were handled differently. The approach is now standardized, and actions are the same under both of the laws.

Consequently, only finalized issues, and not files that are still under investigation, are accounted for.

1/ Section 38: The Ombudsperson must report on its activities once a year.

This report describes the grounds of the complaints received under the application of section 8 and indicates, for each type of complaint:

1° The number of complaints received, rejected after a summary investigation, reviewed, rejected or abandoned since the last summer.

2° The follow-up done since their initial review.

The report also indicates the Ombudsperson's actions with regard to the application of section 20, along with its main conclusions and recommendations, if applicable.

The contents of the report are added to that of the report referred to in section 28 of the *Public Protector Act* (chapter P-32).

2/ For improved understanding of the data, the reader can refer to the definitions included in Appendix 6 at the end of this report.

REQUESTS FOR SERVICES *RECEIVED* IN 2006-2007

When a citizen or his or her representative calls on the Québec Ombudsman for help or to file a complaint, referral or report, a request for services is logged. In 2006-2007, the Québec Ombudsman received 20,641 requests for services, compared to 23,389 in 2005-2006, an 11.7% drop.

Requests for services at April 1, 2006		Requests received		Requests investigated		Requests being investigated at March 31, 2007
981	+	20,641	-	20,487	=	1,135

REQUESTS FOR SERVICES *INVESTIGATED* IN 2006-2007

TABLE 1

Distribution of requests for services investigated

	n	%
Under the jurisdiction of the Québec Ombudsman		
Complaints and reports	8,040	39.3
Requests for assistance	684	3.3
Not under the jurisdiction of the Québec Ombudsman		
Requests for assistance and referrals	9,383	45.8
Requests for information	2,380	11.6
Total	**20,487**	**100.0**

TABLE 2

Overview of all requests for assistance and referrals [outside jurisdiction]

	n	%
Excluded health-related activities (physicians, pharmacists and dentists)	570	6.1
Municipal administration	402	4.3
Non-subject government agencies and government corporations	938	10.0
Centres de la petit enfance (CPE) network	10	0.1
Education system	118	1.3
Federal bodies or bodies from other provinces	580	6.2
First-level health and social services recourse not exercised	1,965	20.9
Private sector [1]	4,505	48.0
Others	295	3.1
Total	**9,383**	**100.0**

1/ Professional corporation issues referred to the corporations or associations concerned, or private or business disputes

TABLE 3
Overview of complaints and reports

	Investigated at Avril 1, 2006	Received in 2006-2007	Total to investigate	Investigated 2006-2007	Requests being investigated at March 31, 2007
Public administration					
Complaints	791	7,687	8,478	7,644	834
Health and social services					
Complaints	132	479	611	324	287
Reports	58	28	86	72	14
Total	981	8,194	9,175	8,040	1,135

PROCESSING OF INVESTIGATED COMPLAINTS AND REPORTS

A complaint or report can incorporate several grounds of dissatisfaction. All of these grounds are individually investigated and responded to. The 8,040 complaints investigated where a final response was sent by the Québec Ombudsman included 9,214 grounds. The following data illustrates their distribution and how they were processed.

TABLEAU 4
Distribution of grounds of complaints and reports investigated

	Number of complaints and reports	Complaint Grounds
Public administration		
Complaints	7,644	8,500
Health and social services		
Complaints	324	557
Reports	72	157
Total	8,040	9,214

TABLE 5

Distribution of grounds of complaints and reports investigated

	Investigation underway		Investigation completed		Total
	Referred[1]	Interrupted[2]	Non-substantiated	Substantiated	
Public administration					
Complaints	1,323	2,669	3,319	1,189	8,500
Health and social services					
Complaints	–	58	313	186	557
Signalements	93	19	30	15	157
Reports					**9,214**

1/ **Request referred:** While investigating the grounds of a complaint, the Québec Ombudsman identifies a possible outside solution and directs the citizen to the appropriate body. With regard to grounds of reports, these would be referred to regional agencies.

2/ **Investigation interrupted:** The Québec Ombudsman, subsequent to its initial investigation, must interrupt its intervention for a reason provided for under the applicable legislation. An investigation can also be interrupted at the citizen's request or because a situation has been resolved in the interim.

TABLE 6

Departments and agencies concerned by 50 or more complaints with substantiated grounds in the public administration

50 or more complaints with substantiated grounds	n	%
Ministère de la Sécurité publique	511	43.0
Société de l'assurance automobile du Québec	180	15.1
Ministère du Revenu	94	7.9
Commission de la santé et de la sécurité du travail	92	7.7
Ministère de l'Emploi et de la Solidarité sociale	78	6.6
Ministère de l'Éducation, du Loisir et du Sport	54	4.6
Sub-total	1,009	84.9
Departments and agencies concerned by less than 50 substantiated grounds[1]	180	15.1
Total	**1,189**	**100.0**

1/ See Appendix 4 for the distribution of the substantiated grounds of complaints with regard to other departments and agencies at the end of this report.

TABLE 7

Distribution of complaints with substantiated grounds in the health and social services network, by body

Bodies in the health and social services network	n	%
Hospital centres	74	39.8
Local community service centres	40	21.5
Nursing homes and long-term care establishments	25	13.4
Youth centres	16	8.6
Rehabilitation centres	16	8.6
Community organizations	10	5.4
Emergency prehospital services	4	2.2
Regional agencies	1	0.5
Certified private nursing home facilities	–	–
Total	**186**	**100.0**

The Québec Ombudsman issued 1,173 recommendations, 20% of them collective in scope.

TABLE 8

Number and scope of the Québec Ombudsman's recommendations

	Individual scope[1]		Collective scope[2]		Total
	n	%	n	%	
Public administration					
Complaints	886	93.2	65	6.8	951
Health and social services					
Complaints	49	23.7	158	76.3	207
Reports	2	13.3	13	86.7	15
Total					**1,173**

1/ **Individual scope:** The Québec Ombudsman is successful in resolving a situation with regard to the person who contacted it.

2. **Collective scope:** The Québec Ombudsman ensures that persons who have not contacted it but are in a similar situation will benefit from the correction implemented.

TABLE 9
Follow-up of the Québec Ombudsman's recommendations

	Accepted and implemented	Refused
Public administration		
Complaints	98.5%	1.5%
Health and social services		
Complaints	98%	2.0%
Reports	100%	–

Here is a list of the appendices that complete the presentation of results in figures for 2006-2007:

Appendix 1. Definitions to better understand the data

Appendix 2. Origin of complaints received by public administrations, based on the citizen's administrative region

Appendix 3. Origin of complaints and reports received in the health and social services field, based on the sociosanitary region of the body involved

Appendix 4. Complaints and grounds of complaints reviewed by the department and organization, based on the results

Appendix 5. Complaints reviewed in the health and social services field, by body

Appendix 6. Grounds of complaints reviewed in the health and social services field, by category of grounds

Appendix 7. Reports reviewed in the health and social services field, by program/service

These appendices appear at the end of this report.

The Public Administration 2

The Public Administration

DEPARTMENTS

At March 31, 2007, the Government encompassed 24 departments and related secretariats. This report includes detailed accountability information for 9 of these. Some of the organizations in question were selected because the Québec Ombudsman received a significant number of complaints concerning them. For others, their inclusion is due to unresolved problems, or broad issues of concern to various instances with an impact on numerous citizens. The departments selected are:

The Ministère de l'Agriculture, des Pêcheries et de l'Alimentation

The Ministère du Développement durable, de l'Environnement et des Parcs

The Ministère de l'Éducation, du Loisir et du Sport

The Ministère de l'Emploi et de la Solidarité sociale

The Ministère de la Justice

- The Directeur de l'État civil

The Ministère des Ressources naturelles et de la Faune

The Ministère de la Sécurité publique

The Ministère des Transports du Québec.

Revenu Québec

Very few complaints were received with regard to the 15 other departments, for which no specific comments were made. This may be due to their respective mandates, which do not require that they provide direct services to the population. Some departments are notably responsible for defining and ensuring the implementation of policies or overseeing governmental coordination. Others, such as the Ministère des Finances and the Secrétariat du Conseil du trésor, play a more central public role.

AGENCIES

The Québec Ombudsman also has jurisdiction over 64 government agencies. A great many of them play an advisory role for departments and, like some departments, do not offer direct services to the population. Six government agencies were targeted by a good number of complaints, or their operations were deemed of public interest by the Québec Ombudsman:

The Commission de la santé et de la sécurité du travail

The Curateur public

The Financière agricole

The Régie de l'assurance maladie du Québec
The Régie des rentes du Québec
The Société de l'assurance automobile du Québec

The 58 remaining agencies, the majority of which generated few or no complaints, also include administrative courts and some bodies with jurisdictional responsibility.

All of the files selected for the purpose of this document involve situations that were corrected during 2006-2007.

The analysis of complaints included in the following pages is put into perspective by an overview of these departments and agencies. While not comprehensive, these introductions nonetheless recap the mission of these government authorities, and describe, among others, any impact on public services of the introduction of new laws, regulations or programs during the year. Any problems are then illustrated by meaningful cases.

This report also addresses follow-up by departments or agencies with regard to prior recommendations issued by the Québec Ombudsman. In the same vein, it incorporates the views presented by the Québec Ombudsman to the members of parliamentary commissions, as well as the ensuing recommendations.

In addition to recommendations following individual complaints, the Québec Ombudsman also makes recommendations, wider in scope and related to issues evaluated over the course of the year, to certain departments and agencies. The Québec Ombudsman will be following up on all of these recommendations.

The comments and recommendations issued by the Québec Ombudsman are not meant to pass sentence on the actions of departments and agencies. They are, rather, the fruit of an impartial study of situations brought to its attention by citizens.

The following pages include the results for the 2006-2007 fiscal year for the public administration sector, along with our analysis of the departments and agencies selected this year. The government authorities are presented in alphabetical order, according to their names at March 31, 2007.

Departments

The Ministère de l'Agriculture, des Pêcheries et de l'Alimentation

The Ministère de l'Agriculture, des Pêcheries et de l'Alimentation supports and affects the overall growth of the Québec bio-food industry within a framework of sustainable development. The department contributes to the advancement of agriculture through the various programs it manages, which notably concern stock and plant production, fishing, farming, food transformation and distribution, restoration and retailing activities.

Complaints Reviewed by the Québec Ombudsman

Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	12	12	7	5

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

The complaints reviewed mostly concerned two specific programs. These are the *property tax refund program* and the *Prime-Vert* program, which offers subsidies for the incorporation of environmental protection measures in agricultural processes. Citizens also call upon the Québec Ombudsman with regard to the department's negotiations with Hydro-Québec in situations where farms suffer damage due to stray voltage from power structures. Others contest the department's refusal to approve the reforestation of farming land or decry the problems involved in acquiring agricultural property from the State. Some complaints are also received regarding food inspection requirements.

The two files described herein are representative of the Québec Ombudsman's interventions in terms of equity. The first file was initially described in the Québec Ombudsman's 2003-2004 annual report. It is meanwhile appropriate to now consider its the outcome, given that the Québec Ombudsman's proceedings resulted in a collective impact.

Justice for one, justice for all

In this regard, we need to reiterate that the Québec Ombudsman had originally intervened on behalf of a maple syrup producer who was contesting a departmental decision with regard to a compensation program introduced in 2001 to assist producers who had incurred losses subsequent to a 1999 wind storm. The maple syrup producer felt that he had been treated unfairly as a result of his having submitted, in 2000, the "voluntary statement" requested by the department to seek compensation for his loss of 3,600 tap holes. In his official claim submitted in 2001, which included the results of an expertise

performed by a Financière agricole du Québec agronomist, he noted an additional loss of 1,900 tap holes. He explained that the storm had impacted the tree density in the sector where these maple trees grew, leaving 1,600 top holes non-profitable. The loss of the other 300 tap holes was only ascertained after he had submitted his voluntary statement in 2000. In 2003, the maple syrup producer won his claim in part, for the department had revised its 2001 decision subsequent to the Québec Ombudsman's involvement, and compensated him for the loss of 1,600 of the additional 1,900 tap holes for which he had filed an additional claim.

Of the opinion that the claim had still not been handled in an equitable manner, the Québec Ombudsman in 2004-2005 continued its actions to help maple syrup producers with official claims that were higher than their voluntary statements receive the entire compensation to which they were entitled. The Québec Ombudsman had in fact noted that numerous producers were penalized because they had completed the said voluntary statement as of 2000. The department had indeed refused to accept the losses indicated in their official claim, yet had accepted to do so for those who had solely submitted an official claim in 2001.

The voluntary statement form asserted that failing to complete the document would not impact or affect a producer's future request for compensation. Paradoxically, completing that form had caused prejudice to several of them, as in actual fact, the department was considering the voluntary statement as an official claim. Yet it couldn't be considered as such since the right to compensation had only been officially recognized when the compensation program was adopted in 2001.

The Québec Ombudsman consequently asked the department to not take the voluntary statement into account and to instead award maple syrup producers the compensation provided for under the program as per the losses indicated in their official claim. The department agreed to pay the producer who had originally contacted the Québec Ombudsman in this regard the compensation it had initially refused, i.e. for the loss of 300 tap holes. It also agreed to compensate the ten other maple syrup producers in a similar situation, sharing some $36,000 each other.

Making an effort to act fairly

An investigation of complaints regarding the Prime-Vert program unveiled a program that was being enforced solely according to set standards. In relying on such a rigid application, the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation fails to act fairly. Yet this fundamental rule of justice, enshrined in *An Act respecting administrative justice*, must serve as a guideline for any Public Administration decision concerning citizens. To avoid being hindered by an overly judicial interpretation, departments must adopt methods of ensuring fairness in their actions, specifically when implanting programs and preparing instructions for the public servants responsible for implementing them.

In 2002, four veal producers each built a structure for storing manure over a period of 250 days, to avoid having to empty their stables when they wintered their livestock. Such structures eliminated potential sources of pollution as there were now no more heaps of manure in the fields from October to May, a period when spreading manure is prohibited. In order to achieve their project, the producers received a subsidy from the department, within the framework of the Prime-Vert programme.

In the spring of 2003, the producers realized that their structures would be insufficient for storing the volume of manure needed during the planned period. Between January and April 2004, department engineers and agronomists verified the manure volume to be stored and the related management, comparing the initial measurements to those from a database used by professionals and other actors in the agricultural sector. This database was published by the Centre de référence économique en agriculture et agroalimentaire du Québec, a private organization to which the department belongs, which it subsidizes, and which it recognizes as a source of official agricultural data. Department professionals concluded that the volume of manure to be stored was nearly twice that calculated using the database information.

Despite this observation, the department continued to hold the professionals hired to draw up the structures' plans by the producers responsible for the fact that the space was insufficient. According to the department, the duties of these professionals included adjusting the database information, based on each of their client's activities, to properly calculate the volume of manure generated by the respective herds. In support of its conclusion, the department cited the Prime-Vert program provision concerning a waiver of responsibility for execution of the work. It added that responsibility for use of the database was to be borne by users, in this case the engineer and the agronomist. While the department did offer financial assistance to producers, it was not significant enough to allow them to make the necessary changes to their warehousing installations.

The Québec Ombudsman saw this situation in an entirely different light. First, it noted that the data on animal waste from the Centre de référence was the only such information available to the agronomist and the engineer. This information was also the one used by agronomists from the department. Second, the department had incorporated these data into the administrative procedures it relied upon to calculate the subsidies granted, surely a testimony to its belief that it was accurate. Third, the Ministère de l'Environnement1 also relied on this data to check whether the dimensions of warehousing structures were compliant prior to issuing the authorizations necessary for construction.

In the Québec Ombudsman's opinion, the combination of these factors led to the same conclusion: all industry professionals, including those in the Public Administration, considered these data to be reliable and exact. The department's application of the clause regarding waiver of responsibility was therefore inappropriate and inherently unfair, for it failed to take into consideration all of the underlying administrative factors related to the Prime-Vert program.

Bearing in mind that the producers trusted the Administration and that the situation had a significant financial impact on the management of their farms, the Québec Ombudsman asked the department to come up with a fair solution that would help them render their structures compliant.

The department was forthcoming vis-à-vis the arguments put forth by the Québec Ombudsman and reviewed its decision. It then obtained from the Conseil du trésor the necessary credits to assist the producers who had taken up the issue with the Québec Ombudsman. In December 2006, it was thus able to provide them with additional financial support, covering 90% of the costs of expanding their structures, up to the $100,000 maximum provided for under the Prime-Vert program of each farmer.

1/ Now the Ministère du Développement durable, de l'Environnement et des Parcs

The Ministère du Développement durable, de l'Environnement et des Parcs

The Ministère du Développement durable, de l'Environnement et des Parcs has the mission of protecting the environment, natural ecosystems and biodiversity. The department must contribute to the well-being of current and future generations by providing the population with a healthy environment in line with Québec's economic and social development. It is responsible for promoting sustainable development and coordinating all government initiatives in this area. The department also oversees administration of the national parks network.

Three agencies report to the department:

the Bureau d'audiences publiques sur l'environnement;
the Société québécoise de récupération et de recyclage; and,
the Société des établissements de plein air du Québec.

A NEW MANAGEMENT FRAMEWORK

A Sustainable Development Act, adopted on April 19, 2006, establishes a new management framework under which the Public administration can increasingly take this factor into account when developing programs and policies. The act foresees the adoption of a new strategy aiming to ensure consistent government action in this area.

On December 14, 2006, an assistant auditor general, whose official position is that of Sustainable Development Commissioner, was named by the Auditor General and approved by the Office of the National Assembly. He primarily seconds the Auditor General in carrying out verification duties implicating sustainable development.

Implementation of the legislation will likely result in legislative, regulatory and administrative changes at the Ministère du Développement durable, de l'Environnement et des Parcs. All other government departments and agencies will be invited to review their legislative framework, methods of working and services, as required to adhere to existing principles and achieve the objectives of the legislation, the sustainable development strategy, and the comments of the Sustainable Development Commissioner. With a degree of alertness much like that exhibited during the application of *A Public Administration Act*, the Québec Ombudsman will be particularly watchful of the potential impacts these changes could have on services to citizens.

The Bureau d'audiences publiques sur l'environnement

The Bureau d'audiences publiques sur l'environnement has the mission of consulting and informing the population on issues regarding the quality of the environment. It evaluates private and public projects with a potential environmental impact, and listens to citizens' concerns.

The Bureau d'audiences publiques sur l'environnement is the only agency reporting to the department over which the Québec Ombudsman has jurisdiction. In this case, the Québec Ombudsman reviews complaints regarding administrative actions by personnel of the Bureau d'audiences publiques sur l'environnement's secretariat and general directorate. This is not the case for the Société québécoise de récupération et de recyclage and the Société des établissements de plein air du Québec, for their employees are not appointed under *A Civil Service Act*.

The complaints reviewed in 2006-2007, however, only concerned the Ministère du Développement durable, de l'Environnement et des Parcs.

Complaints Reviewed by the Québec Ombudsman

Ministère du Développement durable, de l'Environnement et des Parcs*	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	27	29	20	9

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

The Québec Ombudsman received a variety of complaints. The most often cited grounds concerned the department's handling of environmental complaints, with citizens primarily criticizing the department's failure or hesitancy to take the necessary actions to ensure adherence to laws and regulations in circumstances they considered detrimental to their health or the environment.

AIR QUALITY REGULATION

Under its mandate, the Québec Ombudsman is concerned by the *Air Quality Regulation* in so far as its implementation is likely to have an impact on citizens, businesses and municipalities.

On January 18, 2006, the Acting Ombudsperson wrote to the Minister of Sustainable Development, Environment and Parks to offer its opinion in this regard and emphasize the importance of developing an implementation plan for this future regulation. It also suggested that a section of the department's annual report be dedicated to the application of this regulation or, at least to

produce a separate periodical report. Either approach would offer citizens more comprehensive information on a subject that is decidedly in the public interest.

On March 31, 2007, the department carried on its analysis of the briefs and comments received, and promised to respond to the Québec Ombudsman once this exercise was completed.

THE NECESSARY COOPERATION AND CONSENSUS-BUILDING

Government regulations on environmental protection are mainly enforced by three actors with specific powers and responsibilities within their respective jurisdictions. The federal and Québec governments pass laws and regulations, disseminate information and promote good environmental practices in those areas they are responsible for as a result of the constitutional division of powers. Municipalities and regional county municipalities (RCM), in turn, are increasingly given authority in these areas. Initially focused on issues involving nuisances and zoning, these powers now include matters such as the management of some watercourses, and the protection of banks, shores and floodplains.

In the environmental realm, the legislative and regulatory corpus is notable for its scope and complexity, comprising numerous related and often technical standards that are often amended and updated. Lastly, another category of actors are notably involved in this area. They are the federal and provincial departments responsible for land development, wildlife management, agriculture and fisheries.

The sheer number of stakeholders, combined with the multitude of required standards and necessary project authorizations, can be staggering for citizens. Governments, municipalities and RCMs must make every effort to mitigate the risks related to information quality, cooperation and concerted action. These factors are not exclusively linked to environmental protection, and can easily exist in other activity sectors. At times, moreover, various units within a same public agency will give paltry consideration to citizens' interests, either failing to act in concert or passing the buck with regard to a given issue.

Each year, the Québec Ombudsman is contacted by people who claim to have been misled by a lack of information on the respective responsibilities of their municipality and the Ministère du Développement durable, de l'Environnement et des Parcs, or because of a lack of cooperation between the latter and other departments.

The application of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains is rife with the potential for such a lack of communi-

cation. The department is notably mandated to develop and coordinate the implementation of this policy, while municipalities must adapt the policy's principles to their regulations and oversee its implementation within their respective territories. The Québec Ombudsman and the department have been discussing the difficulties inherent in the application of this policy over the past few years. Early on, the Québec Ombudsman observed a number of problems regarding the exercising of the respective responsibilities of municipalities and the Ministère du Développement durable, de l'Environnement et des Parcs with regard to a number of issues, among them the quality and comprehensiveness of the information disseminated to citizens, the dialogue among the parties involved, the training offered by the department to municipal inspectors, or yet still the lack of a unique and detailed definition of a watercourse.

The department reacted positively to the Québec Ombudsman's comments and has been making ongoing corrections since 2002, including a review of its working and communication tools. The policy was also amended in 2006, with a view to facilitating its implementation. The Québec Ombudsman cannot at this point determine the positive impact these actions may have had on citizens.

In addition, and with regard to the prevention aspect of its mandate, the Québec Ombudsman deems it appropriate to remind the Ministère du Développement durable, de l'Environnement et des Parcs that in light of the significance and criticality of its responsibilities, it should always bear in mind the risks related to a sharing of responsibilities among various entities and take the available measures to minimize these as much as possible. The department should consider this a priority, not only in applying this particular policy, but in all areas of the program where there is a sharing of responsibility.

This reminder is included in the Québec Ombudsman's 2006-2007 observations on the coordination of regional activities with the Ministère des Ressources naturelles et de la Faune, and regarding the public management of the erosion of the shores of the St. Lawrence with the Ministère de la Sécurité publique and the Ministère des Affaires municipales et des Régions. In both instances, the Québec Ombudsman intervened with a focus on prevention, striving to increase the Administration's awareness of the critical importance of further coordination among the various actors and the need to pay particular attention to the information disseminated to citizens.

In this present case, the Québec Ombudsman feels that the Ministère du Développement durable, de l'Environnement et des Parcs should learn from the problems it encountered in implementing the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains. The Québec Ombudsman therefore expects the department to use all the legislative and other tools available to facilitate the application of the policy as revised in 2006. In addition, with regard to those areas of activity where there is a sharing of responsibility, the Québec Ombudsman believes the department must do everything in its power to promote coordination and consensus-building, particularly as regards information disseminated to citizens.

The Ministère de l'Éducation, du Loisir et du Sport

The primary mission of the Ministère de l'Éducation, du Loisir et du Sport is to oversee the delivery of quality educational services in Québec. It is notably responsible for ensuring that citizens have access to the public education system, and the Department's activities incorporate preschool education, elementary and secondary education, vocational training, college education and university education and research.

Through partnerships with the actors involved, the Department is also mandated to promote the development of sports and leisure within a safe and healthy environment. It is subsequently responsible for inciting Québec citizens to adopt a physically active lifestyle.

The Department makes few public services available to citizens, the delivery of most of these falling within the purview of learning establishments. The primary service offered directly by the Department is student financial assistance.

THE DEPARTMENT AND NETWORK

The *Act respecting the Ministère de l'Éducation* gives the Department a general mandate over the educational system while also defining its obligations vis-à-vis learning establishments. Administrative rules and applicable legislation differ based on the level of education. For example, the Department is responsible for diplomas at the secondary and college levels, and is notably the body to sign them at these two levels. It has no such responsibility, however, at the university level.

In another vein, as the main funding party and the entity responsible for public funding, the Department exerts a major influence, through administrative controls and directives, over the delivery of services by establishments.

Notwithstanding complaints regarding financial assistance for students, which are fully within the jurisdiction of the Québec Ombudsman, the majority of the other complaints submitted require a targeted review. Such an analysis makes it possible to ascertain whether the Department, in acting or failing to do so, has impinged on the rights of citizens, from the perspective of its organizational duty or the quality of the education it must ensure at all educational levels. The Québec Ombudsman has the necessary authority to take action if the established regulations and rights are not respected or adhered to.

Complaints Reviewed by the Québec Ombudsman

Education (except for student financial assistance)	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	20	21	12	9

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

In 2006-2007, the complaints that prompted the Québec Ombudsman to request corrective measures involved financial assistance for students, problems related to diplomas (specifically, the management of transcripts and diplomas), teacher qualification, residence problems in Québec and access to English-language schools.

Notably, no complaints were submitted regarding the Department's activities in the area of sports and leisure.

L'AIDE FINANCIÈRE AUX ÉTUDES

Aide financière aux études (AFE) was created in 1966 under the *Student Loans and Scholarships Act*, which was replaced by the *Act respecting financial assistance for students* in 1990. An amendment passed on December 19, 1997 transformed this legislation into the *Act respecting financial assistance for education expenses*.

Aide financière aux études has been an independent unit of the Ministère de l'Éducation, du Loisir et du Sport since April 8, 1997. It is responsible for managing its primary program, the *Loans and Bursaries Program*, which incorporates supplementary programs for meeting specific needs, among them the:

Allowance for Special Needs Program;

Deferred Payment Plan;

Loan Remission Program.

A MORE RELIABLE COMPUTER SYSTEM

Over the past three years, Aide financière aux études has completed an overall upgrade of its computer system, Contact, as part of its efforts to support the reform of the AFE program. Management of the Loans and Bursaries Program was enhanced by the introduction of monthly assistance

payments, which have proven effective in helping students better administer their budget throughout the entire year.

The Québec Ombudsman's 2004-2005 and 2005-2006 reports mainly addressed the numerous problems experienced during the first two years following the system's implementation. The verifications, tests and trials of the Contact computer system conducted by Aide financière aux études, in conjunction with the complaints received in this regard by the Québec Ombudsman, played a role in the resolution of the problems identified. The actions of the Québec Ombudsman were welcomed by authorities from the Department, which continued to strive to correct the known system deficiencies. This resulted in major improvements during the course of this last year. The Québec Ombudsman acknowledges the Department's efforts to solve these problems, as well as its generally successful results.

Complaints Reviewed by the Québec Ombudsman

Aide financière aux études	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	135	143	98	45

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Complaints concerned the AFE's two main activity sectors, the granting of assistance and repayment procedures and policies. With regard to the former, students contacted the Québec Ombudsman mainly regarding the calculation method adopted and the amount subsequently granted. Processing times were also criticized. With regard to the eventual repayment of student loans, graduates contested the outstanding loan amounts and expressed dissatisfaction with repayment conditions.

NOTEWORTHY IMPROVEMENTS

On November 2, 2000, under *A Public Administration Act*, Aide financière aux études officers explained their administrative management approach to the Committee on Public Administration. The Québec Ombudsman submitted a report to the Committee wherein it outlined

four problems concerning the *Loans and Bursaries Program* and asked for the implementation of measures to improve or correct the situations brought to its attention. These problems concerned:

1. Inappropriate procedures ensuing from the verification of student income with the Ministère du Revenu.
2. A lack of flexibility regarding the repayment of amounts due.
3. The AFE's failure to correct its errors.
4. The lack of credibility of the options for redress available to students.

What type of follow-up was done subsequent to the Québec Ombudsman's recommendations?

This year, the Québec Ombudsman assessed the impact of the measures introduced by Aide financière aux études following the recommendations put forth previously. Following is a short recap of the respective problems, as well as follow-up of the changes made by Aide financière aux études and comments from the Québec Ombudsman. Generally speaking, the current situation can be considered positive.

1. VERIFICATION OF THE INCOME OF STUDENTS WITH THE MINISTÈRE DU REVENU

Recap of the problem

In order to determine the accuracy of the income declared by students, Aide financière aux études compared it with that reported on Québec income tax declarations. Whenever the AFE noted that the income declared to the Ministère du Revenu du Québec was higher than that used to calculate assistance amounts, it automatically issued a claim, considering that it had granted excess funds to the students in question.

Inversely, cases where the student's income was lower than that declared were ignored, and even though additional assistance could have been warranted, no follow-up was done. The AFE did not contact students to determine why there were such variances in the income amounts declared.

Québec Ombudsman's opinion:

The Québec Ombudsman felt that this procedure was inappropriate, and asked the AFE to provide an opportunity for students to justify any such variances before reaching a decision with a potential effect on a student's right to financial assistance. It also asked it to correct the assistance amounts originally granted in cases where data from the Ministère du Revenu du Québec was favourable to the student.

Where are things at today?

Since the implementation of the Contact *system, cases where a difference in income favours the Department are subject to a greater degree of flexibility, under the act and regulation. In fact, amounts up to $1,000 are added to the final debt. Repayment of amounts of over $1,000 constituting excess assistance can be spread out over more than one year, thereby taking the student's financial capacity into account.*

When a variance favours the student and exceeds $100, Aide financière aux études so notifies the student. It asks for an explanation of the variance, which can at times be due to a drop in earnings. Assistance amounts are then adjusted when and as necessary.

Québec Ombudsman's opinion:

This measure has the added benefit of taking the student's financial capacity into consideration. The Québec Ombudsman remains alert regarding the effect of repayment of such amounts from assistance payments, to notably ensure that the educational success of students is not thwarted. One of the objectives of financial assistance, as stated by lawmakers, is to encourage students to continue their studies.

2. CONDITIONS FOR THE REPAYMENT OF AMOUNTS DUE

Overpayments

Recap of the problem

The Québec Ombudsman felt that the lack of flexibility with regard to repayment due could hinder a beneficiary's studies. It recommended less rigid repayment conditions, and advocated spreading out payments while taking individual financial capacity into account.

Where are things at today?

There are still cases where Aide financière aux études can inadvertently grant students amounts to which they are not entitled. This can occur when a student's circumstances change during the year in which the assistance was granted. If this change decreases the amount in question, assistance that has not yet been paid is cancelled or accordingly revised. However, if the assistance has already been paid in full, the AFE can, during or at the end of the year in question, seek repayment of all or a portion of the sum involved, by notably spreading out the amount in question. Whenever a debt exceeds $1,000, the first $1,000 is pushed back and included in the final amount to be repaid. Overpaid amounts can also be repaid in subsequent years if the total amount involved is significant or if a student has received all of the assistance to which he or she is entitled.

Québec Ombudsman's opinion:

The Québec Ombudsman is satisfied with this method of spreading out repayments.

Resuming studies

Recap of the problem

According to the rules then in force, a student who wished to resume studying had to have repaid at least 50% of his or her debt in order to be eligible for further financial assistance, in addition to reaching an agreement regarding repayment. Given the potential impact of this condition on a successful resumption of studies, the Québec Ombudsman recommended greater flexibility.

Where are things at today?

With the Contact computer system, repayments due (50% of a debt) can be obtained directly from future assistance amounts. As per a request from the Québec Ombudsman, this information is now included in the Student Financial Assistance booklet. The Québec Ombudsman made this request after having observed that students were unaware of this rule, which could be critical to their decision to resume studying, a move that can involve leaving one's job or incurring significant expenses.

Québec Ombudsman's opinion:

The Québec Ombudsman considers it critical that students and future students have access to all of the information regarding the *Loans and Bursaries Program* if they are to make sound decisions. It advocates regularly updating the information communicated on the Internet, in brochures and through other Aide financière aux études communication tools. It strongly urges the Department to continue producing and disseminating information in this regard.

3. AIDE FINANCIÈRE AUX ÉTUDES' ACCOUNTABILITY FOR ITS ERRORS

Financial assistance overpayments

Recap of the problem

Errors would sometimes occur when calculating financial assistance amounts, and students would receive funds to which they were not entitled. In such cases, Aide financière aux études would claim repayment of amounts overpaid. When students were responsible for such an error, they were held accountable and expected to repay all amounts claimed.

However, in the opinion of the Québec Ombudsman, when such an error was solely caused by the AFE and could not be easily discerned by the student involved, Aide financière aux études should have assumed full responsibility rather than opting to penalize the student.

Where are things at today?

The situation has changed following a series of amendments to the Act respecting financial assistance for education expenses. *Currently, if a student receives financial assistance in the form of a bursary, and this solely because of an administrative error he could not reasonably be expected to have any knowledge of, he or she is not bound to repay the amount to which he or she was not entitled. In November 2005, a committee was formed to reassess student requests regarding overpaid assistance or bursary amounts (AVT-BVT). AFE authorities confirmed to the Québec Ombudsman that all instances of assistance overpayments are carefully scrutinized by this committee to ensure that the student in question is treated equitably. The committee's decision can subsequently be appealed by communicating with the Bureau de révision of the Unité des droits de recours.*

Québec Ombudsman's opinion:

The Québec Ombudsman had asked that such a provision be included in the *Act respecting financial assistance for education expenses*, and is satisfied with the Department's response.

Accountability

Recap of the problem

In a similar vein, the Québec Ombudsman felt that Aide financière aux études representatives and public employees should be responsible and accountable for the information communicated to students.

Where are things at today?

Since February 2004, a cooperation agreement between the Department and the learning establishments includes a provision whereby except in instances of gross or intentional negligence, Aide financière aux études is accountable for any administrative errors made by any educational institution employees during the course of their duties.

Québec Ombudsman's opinion:

The Québec Ombudsman considers this acknowledgement of accountability in the cooperation agreements an impressive step forward, and will stay alert to any action contrary to this principle of responsibility.

4. THE CREDIBILITY OF THE OPTIONS FOR REDRESS AVAILABLE TO STUDENTS

Recap of the problem

The Québec Ombudsman favoured the introduction of accessible, credible and efficient avenues of recourse. Impartiality and independence were considered indispensable to ensuring credibility and efficiency. Not only must justice be done, but it must be seen to be done.

The Québec Ombudsman opined that the AFE's Bureau de révision did not adequately ensure the true right to a review. The head of the Bureau de révision, while appointed by the Minister, had no decision-making authority and reported directly to the head of the AFE. The same held true for the Bureau des plaintes, whose role was limited to forwarding complaints to the directorates involved.

Where are things at today?

Aide financière aux études created the Unité des droits de recours, which includes the Bureau de révision, the Secrétariat au Comité d'examen des demandes dérogatoires and the Bureau des plaintes. The unit now reports to the General Secretary of the Ministère de l'Éducation, du Loisir et du Sport. In addition to processing individual student files, it can also recommend improvements with regard to Aide financière aux études and its management.

Québec Ombudsman's opinion:

The Québec Ombudsman is satisfied with this measure, for it guarantees the right to a review under improved conditions.

THE EXAMINATION COMMITTEE FOR EXCEPTIONAL CASES

Recap of the problem

A student could submit a request to the Comité d'examen des demandes dérogatoires if he considered that his ability to continue studying was in jeopardy. He or she could also appeal to this committee if his or her circumstances were not addressed in an AFE program rule, if the maximum number of months of eligibility for financial assistance had been reached, or if he or she had no more borrowing capacity. The Québec Ombudsman deemed the response times of the committee, which sometimes stretched to several months, as too lengthy.

Where are things at today?

According to Aide financière aux études, if a student's file is complete and submitted prior to the deadline on the meeting schedule, it will be reviewed by the Comité d'examen des demandes dérogatoires. The committee's scheduled meetings are published on the ExtraAFE site[1]. The Department's decisions are now rendered within two to three weeks, and students are notified by mail as well as through their online file. The Aide financière aux études Web site states that the Comité d'examen des demandes dérogatoires will usually review a file and submit a recommendation to the Ministère de l'Éducation, du Loisir et du Sport within 30 days. The Department is responsible for making the final decision.

Québec Ombudsman's opinion:

The Québec Ombudsman appreciates that Aide financière aux études is striving to reduce the time periods necessary to process such requests, but wishes to nonetheless emphasize that students need a quick response to requests concerning special circumstances. It specifically notes that the education of students taking such a step is in jeopardy, and can be further harmed by the combination of insufficient financial resources and uncertainty.

The Québec Ombudsman is continuing to generally monitor the application of all of these measures.

The follow-up report on its recommendations prepared by the Québec Ombudsman for its appearance in front of the Committee on Public Administration attests to numerous improvements in several areas. Of the complaints reviewed by the Québec Ombudsman, the following is a testimony to the type of circumstance that can result when the AFE fails to assume responsibility for its mistakes.

Aide financière aux études shoulders responsibility for its mistake

On June 23, 2005, a student submitted a request for financial assistance. On August 26, surprised by the lack of response, she contacted the general information centre, from which she learned that her file included an error with regard to the number of credits in her program of studies. Her request indicated that she was enrolled for a total of 90 credits... in one single session! Such a scenario was literally impossible, as it would have equated completing a Bachelor's degree during one session. The standard number of credits per session was in fact 15.

1/ Restricted Web site for learning establishment partners.

The establishment confirmed the accurate information to the Aide financière aux études on three separate occasions. The student also attempted to have the number of credits in her file changed to reflect the actual situation. As time passed, and this despite acknowledgement of the problem, the student continued receiving monthly assistance amounts. Obviously, there was no reason for her to think that all was not well.

On May 29, 2006, a change in the student's situation prompted the *Contact* system to perform new calculations. Because the initial error had never been corrected, the system generated overpaid assistance for a total of $9,494, and the AFE proceeded to generate a claim calling for repayment of this amount. The student, having tried to have this erroneous information corrected as best as she could, contested the claim, at which point the AFE referred her to the Comité d'examen des demandes dérogatoires. This committee, as previously mentioned, is mandated to focus on situations where ongoing studies are imperilled. Three scenarios in this regard can be evoked: the maximum number of months of eligibility for financial assistance has been reached, the student's debt limit has been reached, or yet still, the student is in a situation not covered by the rules of an AFE program. In this student's case, none of the above three situations applied. She contacted the Québec Ombudsman, who felt that she had been directed towards an inappropriate avenue of recourse.

In November 2005, a committee mandated to perform re-evaluations in such cases was created. Its role was to ascertain whether administrative errors resulting in the overpayment of a loan or financial assistance amount could or could not be contested. The Québec Ombudsman recommended to the student that she contact this new body, which rendered a decision in her favour on July 5, 2006. Aide financière aux études did not insist on repayment of the overpaid amount, but rather, converted it into a bursary.

The Ministère de l'Emploi et de la Solidarité sociale

The Ministère de l'Emploi et de la Solidarité sociale is responsible for:

promoting employment, developing the labour force and improving labour market operations;

providing financial support to economically disadvantaged persons and fighting poverty and social exclusion.

The department provides employment services and makes financial assistance available through its province-wide network of 154 local employment centres (CLEs). It is also mandated to oversee the *Québec Parental Insurance Plan*, which came into force on January 1, 2006.

MULTIPLE AVENUES OF REDRESS FOR CITIZENS

The decisions made at the Ministère de l'Emploi et de la Solidarité sociale comply with regulatory standards and criteria. Depending on the problem, there are a number of recourses available to a citizen who feels prejudiced. He can begin by contacting the department's complaints office (Bureau des renseignements et plaintes). He can also request a review of a decision, and if necessary, appeal to the Administrative Tribunal of Québec. He can also simultaneously call upon the Québec Ombudsman for help in settling a dispute.

EMPLOYMENT

The labour market has improved substantially over the past decade, so much so that the unemployment rate is now at its lowest level since thirty years. The employment rate among the active population, moreover, reached a historical peak in 2006. Full-time employment also increased at a faster clip than did part-time employment.

The working population in Québec continues to grow, and consisted of 4,143,700 people in March 2007, another historical growth pinnacle. In March 2007, the unemployment rate was at 7.6%, a 0.2% drop from the previous month. Since employment figures began rising in May 2006, a total of 97,400 new jobs were created. The labour market is dynamic. Today, there are 210,000 more jobs in Québec — and 54,500 fewer unemployed workers — than there were in April 2003.

The Ministère de l'Emploi et de la Solidarité sociale nonetheless continues to be concerned by the challenges represented by an aging population, a high rate of social assistance and low business productivity, particularly as regards a balanced labour market and sound public finances. Its objectives are to prevent labour shortages, reduce unemployment and underemployment, while battling poverty and social exclusion.

Complaints Reviewed by the Québec Ombudsman

Employment	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	30	31	29	2

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

In 2006-2007, the Québec Ombudsman received a mere two substantiated complaints regarding the services delivered by Emploi-Québec. In both instances, citizens denounced the delays before a decision was rendered. The complaints were filed during the holiday period, and by the time the Québec Ombudsman got involved, the matter had been settled.

FINANCIAL ASSISTANCE

UNIFIED MANAGEMENT OF SERVICES AND THE SINGLE-WINDOW APPROACH

Since April 2006, the department has consisted of two agencies: Emploi-Québec and the Centre de recouvrement. Income security was merged with Emploi-Québec, and the latter currently continues to provide public employment services while also managing social assistance programs, which have been renamed financial assistance programs.

According to the department, the implementation of unified services management and a single-window approach to delivering benefits in 154 local employment centres will enable it to better use the resources available to it. One of the objectives of this restructuring exercise was to allow recipients of last-resort financial assistance to more easily integrate the labour market. While it is still too early to assess the effect of this new structure on citizen services, the Québec Ombudsman is monitoring the situation with interest.

A MODIFIED PROFILE OF LAST-RESORT FINANCIAL ASSISTANCE RECIPIENTS

Over the past ten years, there has been a 7.2% decrease in the number of recipients of last-resort financial assistance. Their number now stands at a little over 500,000, including 381,130 adults and 124,615 children. According to statistics over the same period, the profile of recipients has changed, with more of them presenting a severely limited capacity for employment (either physical or mental). In March 2006, the department established their number at 128,295, which equals 33.5% of adults benefiting from last-resort financial assistance. This figure was at 19.8% in March 1996. Nearly 6,000 of these recipients are represented by the Public Curator.

The department's clientele is aging, with 48.9% of recipients aged 45 years or more at March 2006, compared to 33.4% in 1996. Furthermore, recipients are enjoying assistance for longer periods. Hence, 53.7% of adult recipients in 2006 had been receiving assistance for ten years or more, compared to 33.9% in 1996. The percentage of recipients living alone rose from 54.9% to 66.6% in the last ten years.

A study[1] conducted by the department in 2006 illustrated that even recipients with no limitations to employment faced obstacles in the labour market. There is currently a high percentage of adult recipients who find themselves in particular circumstances where finding employment will potentially be more difficult.

The authors of the study specify that the existence of one or more of the following factors increases the difficulties recipients will have entering or re-entering the labour market:

- lengthy period as an employment assistance recipient (four years or more);
- lengthy absence from the labour market (two consecutive years receiving assistance);
- limited education (dropped out before the second to last year of secondary school);
- age (45 years or older);
- single parent;
- temporary health problems;
- dependent child of less than five years;
- recently released from a health establishment or detention centre.

1/ Ministère de l'Emploi et de la Solidarité sociale, Bulletin d'information de la Direction générale des politiques, Vol. 1, n° 2, February 2006, *Fenêtre sur la recherche et l'évaluation*.

In this regard, the *Individual and Family Assistance Act*, which came into effect in January 2007, includes the creation of a Social Assistance and Support Program to better prepare the more destitute recipients for the reality of having a job.

Complaints Reviewed by the Québec Ombudsman

Solidarité sociale	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	500	505	453	52

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Many of the complaints received from citizens involved eligibility to financial assistance problems or the too-small amounts paid by the department. Citizens also denounced the limited access to various department training measures and the limited funds paid for such participation. Moreover, the department's collection activities upset many, as repeatedly attested to by citizens.

VULNERABLE PERSONS

For several years now, the Québec Ombudsman has been drawing the department's attention to situations calling for a more flexible approach, particularly as regards vulnerable persons. Whereas the department is open to such comments, adapting the processing of varied requests to the specific characteristics of its clientele is a daunting task.

In December 2002, the department supported the recommendations in this regard included in the Québec Ombudsman's annual report, and asked its staff to use all available work tools and seek out a wider range of solutions to promote the social and economic independence of the persons it assisted. It notably asked employees to be open-minded and increasingly flexible.

Despite these efforts, the Québec Ombudsman noted that nothing had changed in 2006-2007. Discussions are still underway with the department at this time, primarily to ensure that persons in distress are not prevented from receiving the support to which they are entitled. In many of these instances, the citizens involved were severely restricted in terms

of complying with applicable standards, mostly due to health reasons. The department, in such cases, decreased or eliminated the financial assistance they had previously received. When the department decreases, cuts or garnishes the income of such citizens, already in a precarious situation, there is a risk that they will:

lose their lodgings;

suffer from malnutrition;

cease taking their medication;

suffer from a deteriorated health condition;

be increasingly isolated.

A major depression at the root of the problem

A citizen notified the Québec Ombudsman that the Centre de recouvrement was garnishing 30% of her salary because she had not responded to department notices concerning a repayment of $2,000. She claimed to have no knowledge of why this amount was being asked of her. The citizen was in a precarious situation, having recently lost her cleaning job. She could no longer pay her rent, was not eating and had numerous other debts to pay. After its investigation, the Québec Ombudsman successfully showed that when the citizen received the amounts to which she was not entitled, she was suffering from a major depression and unable to act rationally, which explained her inability to appropriately respond to the department's notice. Her mental health condition had hence caused the deterioration of her personal circumstances. The department accepted to strike the $2,000 debt.

The right to a second chance

In 1996, a man suffering from paranoid schizophrenia had his benefits cancelled and was sent a claim of $14,000 for undeclared work income. Subsequent to the cancellation of his social assistance, he began cutting corners with regard to his medication, neglected to pay his rent, and was finally evicted by his lodgings' owner. Homeless, the man began sleeping in shelters. Having been hospitalized since June 2004 in a psychiatric ward following a suicide attempt, he was scheduled to be released in the summer of 2006. His family turned to the Québec Ombudsman for help in having his debt to the department struck off, so he could have a fighting change of integrating society upon his release from the hospital. The department agreed to take his circumstances into consideration and cancelled its claim.

A circle of violence

A young mother of 24 had a debt of around $5,500 for undeclared work income, which the department was repaying by deducting $112 from her monthly benefits. She contacted the Québec Ombudsman, explaining that she had filed a false declaration out of fear of her ex-spouse, an alcoholic and drug addict who had been incarcerated numerous times and was not supporting his family. In November 2005, the citizen had lodged a complaint against him after he issued death threats. Subsequent to its review of the file, the Québec Ombudsman was able to establish that at the time she neglected to meet her obligations, the young woman's psychological state was such that she was caught in a circle of violence. The debt was then cancelled by the department's Bureau de révision.

A citizen becomes increasingly distressed as problems pile up

The department garnished 30% of a citizen's salary when she failed to repay a $10,000 debt. Several years earlier, she had neglected to declare certain work income because she had used it to pay off her son's drug debts. The young man in question committed suicide in 1997, increasing the citizen's physical and psychological distress. These happenings were followed by a bout with cancer and several additional episodes of depression. Shortly after contacting the Québec Ombudsman for help, the citizen lost her job. As a result the Québec Ombudsman was successful in convincing the department to strike off the interest amount of $7,500 and agree to a repayment of the remaining balance by means of $20 per month.

THE INDIVIDUAL AND FAMILY ASSISTANCE DRAFT REGULATION

The *Individual and Family Assistance draft regulation* was published on June 21, 2006. This draft regulation defines the rules governing the introduction of the act of the same name, adopted on June 17, 2005 and designed to slowly replace the *Regulation respecting income support*.

The draft regulation specified rules for the implementation of the following programs:

- social assistance program;
- social solidarity program;
- alternative youth program;
- specific programs.

In a September 14, 2006 letter to the Minister, the Ombudsperson emphasized the project's benefits, particularly with regard to the higher exclusion for certain property and assets, for example the increase of the applicable exemption for a vehicle from $5,000 to $10,000.

She made various other recommendations regarding the draft regulation, with the aim of ensuring that everyone in need of last-resort assistance be treated fairly and equitably.

Five recommendations were put forth:

1. A CHANGE IN THE DEFINITION OF SHARED CUSTODY

The draft regulation included a provision whereby a parent was considered to have custody if a child was in his or her care at least 40% of the time. This definition was in line with that used in the model for determining child support payments. The Ombudsperson questioned the impact of this increased percentage on a parent's eligibility for a supplement for limited capacity for employment. More specifically, she was concerned about the ability of the parents involved to meet the needs of their children while they were in their care.

The Ombudsperson asked that the old definition, more flexible, be retained.

2. FAIR TREATMENT IN DETERMINING ELIGIBILITY FOR ASSISTANCE

When the Individual and Family Assistance Regulation came into force this past June, the eligibility evaluation for households that included an adult with a severely limited capacity for employment was abolished. This show of flexibility deserves recognition.

Under the provisions of the Social assistance program, a single adult with more than $852 in assets is considered ineligible on the basis of having excess assets. This amount is $1,128 for a family. These amounts were established in 1996, and have never been changed.

Under the draft regulation, however, an adult may have assets of up to $2,500 ($5,000 for a family) and still be eligible for the Social solidarity program.

This difference in how various persons, all of them requiring last-resort assistance, are treated should be examined. The gap between $852 and $2,500 is disproportionate, particularly if the true financial needs of persons living alone are taken into account. The Ombudsperson recommended that the rule applicable to single persons be reviewed so as to better reflect their needs.

3. INDEXING OF SOCIAL ASSISTANCE BENEFITS

Such indexing is introduced to counter increases in the cost of living. These measures have an impact on everyone involved: the sick, those participating in a specific measure, and those who hold or are looking for a job. While the introduction of new support and assistance programs will decidedly allow for better supporting the most destitute in their efforts to secure a degree of social and professional integration, inflation has a destabilizing effect on low-income individuals in every aspect of their daily lives.

The Ombudsperson therefore recommended that social assistance benefits, like social solidarity allowances, be indexed. Aware that comprehensive indexation is costly, she nonetheless felt that this measure constituted a minimal guarantee for ensuring an adequate lifestyle to all recipients.

4. REVIEW OF THE $224 AMOUNT WITHHELD EACH MONTH

Once the amount of $224 is withheld from the basic financial assistance amount of $548 per month, recipients to whom this scenario applies are left with $324 to meet their needs. Aware that this amount, designed to discourage fraud, is only withheld in cases where a citizen has made more than one false declaration, the Ombudsperson nonetheless felt that the difference between this amount and the basic financial assistance benefit automatically left some recipients in dire straits. She proceeded to recommend that the amount of $224 be revised with due consideration given the range of the financial assistance in force.

5. A $200 INCREASE IN THE EXEMPTION AMOUNT FOR SUPPORT PAYMENTS FOR FAMILIES WITH ONE DEPENDENT CHILD

In 1998, the government established a $100 exemption applicable to support payments for families with custody of one dependent child aged 5 years or less. This exemption was extended in January 2006 to cover all families with a dependent child. In the Ombudsperson's opinion, this increase is worthy of note, as providing children with the possibility of enjoying a decent lifestyle will have long-term social benefits.

This explains why the Ombudsperson revisited this issue, despite the fact that it has been included in the Québec Ombudsman's recommendations for over ten years. In her 2004 brief regarding Bill 57, the Ombudsperson suggested increasing the allowed exemption to the same level as that granted workers, i.e., $200 a month for an adult and $300 a month for a family.

This proposal represented an overall expense of around $13 million, but was easy to implement from an administrative perspective. Given the cost involved, the Ombudsperson recommended a phased approach that would have had the exemption amount progressively increasing until it reached the level granted workers.

While these recommendations were not retained, the Ombudsperson would like to see the department continue its analysis of this issue.

PARENTAL INSURANCE

In June 2005, the Québec National Assembly adopted Bill 108, *An Act to amend the Act respecting parental insurance*, which announced the introduction of the *Québec Parental Insurance Plan* on January 1, 2006. This legislation was passed following an agreement between the governments of Canada and Québec in March 2005.

The Plan includes the payment of benefits to all eligible salaried and self-employed workers who take maternity leave, parental leave or adoption leave. The plan focuses on income replacement, and potential recipients however need have work income to be eligible. Services to citizens are delivered by two client services centres (CCCs, or Centres de Communications avec la clientèle) located in Rouyn-Noranda and Québec City.

To provide a more comprehensive overview of the primary problems and interventions carried out since the Plan's introduction, the Québec Ombudsman's review covers the period from January 1, 2006 to February 28, 2007.

Complaints Reviewed by the Québec Ombudsman

Québec Parental Insurance Plan	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	43	43	19	24

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Between January 2006 and February 2007, the Québec Ombudsman investigated 81 complaints involving the Québec Parental Plan. 67% of these had been filed within the first four months of the plan being introduced, and concerned problems related to the plan's administration. Various malfunctions were the direct result of computer system failures and a lack of staff. During this period, citizens were mainly dissatisfied with the problems they were having receiving telephone or online services and the lengthy delays in resolving files.

The May 2006 hiring of new agents greatly improved matters, and the number of complaints dropped significantly. Subsequent complaints increasingly focused on the fact that certain situations were not adequately covered by the rules, particularly with regard to the calculation of average weekly income and plan eligibility.

DIFFICULTIES LINKED TO THE NEW PROGRAM'S INTRODUCTION

A mistake that left a citizen in a precarious financial situation

A citizen took advantage to take paternal leave from February 12 to March 18, 2006. He proceeded to take the five weeks to which he was entitled, and still news from the Ministère de l'Emploi et de la Solidarité sociale. In mid-March, the department notified him of a computer-generated error in his file, claiming the necessary corrections would be done immediately. By March 20, he still had no news. As a construction worker, he was entitled to employment insurance benefits, given that he had completed his paternal leave. However, he was not able to actually receive his employment insurance benefits until his parental insurance file was settled. He quickly became discouraged, and the couple were forced to borrow on their line of credit to pay for essentials. Once the Québec Ombudsman became involved, the matter was resolved the very same day.

Nearly two months to process a request

A father enrolled in the plan on January 13, 2006. On March 8, his request had not yet been processed, so he asked the Québec Ombudsman to intervene. In the interim, the couple were obliged to sell their car to pay bills and meet their needs. Subsequent to the Québec Ombudsman's action and in light of the couple's extremely precarious situation, the issue was dubbed an emergency and handled immediately.

CIRCUMSTANCES NOT PROVIDED FOR UNDER THE REGULATION

CALCULATIONS LEADING TO MORE EQUITABLE BENEFITS

The average weekly income of a woman who held another job after having taken a precautionary cessation from work was determined on the basis of the last 26 weeks prior to her last pay cheque from her former job. The longer the latter work period, the greater the risk that the worker's benefit would be calculated according to a single income, namely, the latest one. This meant that she was not benefiting from her total income for the entire year, and led to a significantly reduced benefit amount. Such a situation had not been provided for at the time the regulation was drafted.

The Ombudsperson wrote to the Deputy Minister to ask that the average weekly income be calculated on the basis of the period prior to the citizen's precautionary cessation from work. This ensured that all work income would be taken into account, thereby allowing the citizen to enjoy a higher and more equitable parental benefit.

In May 2006, two provisions were added to the regulation governing the application of parental insurance to provide a concrete solution for this scenario. The changes introduced were retroactive to January 1, 2006.

A MORE BOUNTIFUL, FLEXIBLE AND ACCESSIBLE PLAN?

For some women with a risky pregnancy, precautionary cessation from work is not an option. Unable to work during this period, they rely on the income insurance plan included in their employment contract. According to legislation, however, income replacement amounts paid by an employer are considered insurable earnings, and constitute the basis for calculating parental insurance benefits.

A woman who earns $500 per week and whose employment contract includes payments equal to 66% of her salary would receive a weekly insurance income of $330 during her pregnancy. Parental benefits are set at 70% at the start of the period and 55% thereafter. New mothers are entitled to an amount of $231 a week, which drops to $181 during the parental leave.

The Québec Ombudsman felt that this approach was not in harmony with the characteristics of the new *Québec Parental Insurance Plan* as described at the time of its introduction, where the focus was on a more bountiful, flexible and accessible plan.

The department has created a committee to review the matter, and the Québec Ombudsman is awaiting their response.

Lots of hassles for new parents

The period allowed for maternity benefits is 18 weeks. Payments begin no earlier than 16 weeks before childbirth and never extend beyond the 18th week following childbirth. If a mother files her request too late, she loses the payment for the prior period. The department does, however, grant a grace period of three weeks, as provided for under the law.

In addition to this three-week grace period, the legislation mentions that benefits can be paid in full if the applicant can show that she was unable to act within the prescribed time period. A new mother, supported by the Québec Ombudsman, filed such a request.

On June 11, 2006, the citizen gave birth prematurely, notably three weeks early. The child was delivered by Cesarian, and mother and child stayed in the hospital until June 14. The citizen's spouse contacted the department via phone to enrol his wife in the Parental Insurance Plan, and was told he would be sent the necessary forms. While he waited, the mother was once again hospitalized, from July 10 to 14, for a pulmonary embolism.

The signed forms were finally received by the Rouyn-Noranda service centre on July 23. After reviewing the file, the team leader agreed to retroactively authorize the request to June 11, and the citizen received her first cheque for four weeks of benefits. The team leader's supervisor, however, did not concur with his subordinate's decision, being of the opinion that the citizen should have been able to personally sign the forms. Now in an impasse, the citizen stopped receiving payments. The department went one step further, asking her to repay the amounts already received, as this would allow it to start the system up again.

The Québec Ombudsman is of the opinion that the citizen's health condition constituted sufficient grounds to explain the three-week delay. In its opinion, the department should have been more flexible, particularly given the various administrative hassles to which the citizen was subjected, including the cessation of payments and the request for repayment of received amounts, and approved payments retroactive to the date of birth.

The Québec Ombudsman contacted the department, which agreed to retroactive payments to June 11. The citizen subsequently received retroactive amounts totalling around $1,350.

The Ministère de la Justice

The primary mission of the Ministère de la Justice is to ensure the adherence to the rule of law in Québec society and to preserve a credible and dependable system of justice in Québec in which individual and collective rights are respected.

More specifically, the Ministère:

advises the government and its ministers on the legality of their actions and on drafting laws and regulations;

upholds judicial activity and supports the Minister in his duties as Attorney General in civil matters, particularly in representations before the court;

since March 15, 2007, implements policies, orientations and general measures regarding criminal and penal matters;

manages international agreements and accords in the areas of judicial cooperation, the reciprocal enforcement of support and international child abductions;

registers and keeps state documents, proclamations, acts of civil status, commissions under the Great Seal, letters patent or any other document that must be registered by the government;

is responsible for maintaining the Register of personal and movable real rights and the registry of lobbyists, as well as administering governmental public key infrastructures.

On March 15, 2007 *An Act respecting the Director of Criminal and Penal Prosecutions* came into effect, creating this official responsibility. The Director leads criminal and penal proceedings in Québec on behalf of the State, and exercises its functions with the independence conferred on it by the act, under the general authority of the Minister of Justice and the Attorney General. The Director is by virtue of office "Deputy Attorney General" for criminal and penal prosecutions. In February 2007, the government appointed the first Director of Criminal and Penal Prosecutions for a seven-year mandate beginning March 5, 2007.

The Ministère is also responsible for the application of the *Crime Victims Compensation Act*. However, determination of eligibility and the processing of claims is the responsibility of the Direction de l'indemnisation des victimes d'actes criminels of the Commission de la santé et de la sécurité du travail.

COMPENSATION OF VICTIMS OF CRIME

MAJOR ADVANCES

The year 2006-2007 included the May 9 tabling of Bill 25, *An Act to amend the Crime Victims Compensation Act and other legislative provisions.* It was passed on December 13, 2006.

The Québec Ombudsman took advantage of the tabling of the bill to reiterate some of its recommendations.

In a June 12, 2006 letter to the Minister of Justice, the Ombudsperson commented on improvements made by Bill 25. In particular, she pointed out that the increase in compensation paid to cover funeral expenses and recognition of access to psychotherapeutic rehabilitation measures for the close relatives of victims were significant advances. She believed that these changes gave concrete expression to the will of the people to support victims and their close relatives.

Furthermore, she emphasized the importance of broadening the notion of "victim" to include close relatives. She recommended that the notion of "close relative" be defined in the law rather than in a regulation, a recommendation that was followed. Today the definition of "close relative" appears in the amended law and closely resembles the definition proposed by the Ombudsperson

Bill 25 proposed that the reimbursement for funeral expenses be increased to $3,000 from the $600 provided for in the existing law. While this was a significant first step, the Québec Ombudsman reiterated its proposal that coverage for funeral expenses match that paid for traffic accident victims, that is, $4,309 in 2007. When the law was passed, the coverage for funeral expenses was the amount originally proposed by Bill 25, or $3,000, to be increased on January 1 of each year.

Finally, the Ombudsperson suggested that the bill include an amendment so that reconsiderations of decisions could be brought before the Tribunal administratif du Québec, as is the case for the Société de l'assurance automobile du Québec and the Régie des rentes du Québec. The Minister referred this question for study to the taskforce responsible for reviewing the system for compensating victims of crime.

Following the adoption of the law, the final version of the *Regulation respecting psychotherapeutic rehabilitation of close relations of crime victims* was published in the *Gazette officielle du Québec* on March 7, 2007.

All provisions of the law, including the regulations for its application, came into force on March 22, 2007, and their effect is retroactive to May 9, 2006, the date the bill was tabled. Overall, the regulations respond to the Québec Ombudsman's concerns. The Commission de la santé et de la sécurité du travail must report to the Minister of Justice on the application of psychotherapeutic rehabilitation measures two years after they come into force, therefore in 2009. The Québec Ombudsman will pay close attention to this report. Until then, it will monitor the application of the regulations through citizen complaints.

THE QUÉBEC OMBUDSMAN'S PRESENTATION TO THE TASKFORCE

The Minister established a taskforce to review compensation for victims of crime. The Ombudsperson offered the Minister her assistance and indicated her desire to meet the taskforce. As a result, on February 7, 2007, the Québec Ombudsman presented its comments to the taskforce. It reaffirmed the positions from 2002 and made new recommendations to modernize the crime victims compensation system.

Compensation from this system is still based on the provisions of the *Workers' Compensation Act*, which dates back to 1931. The Québec Ombudsman is concerned that these rules for compensation are out of date and do not reflect contemporary economic, legislative and social realities. In terms of the public compensation plans within its jurisdiction, the Québec Ombudsman is very concerned about inequity among citizens who, for similar injuries and needs, are compensated differently depending on the nature of the incident and the source of financing for the program in question.

And yet, in Québec, the legislature has stated that crime is a social risk, and its consequences must be assumed collectively. As a result, a public compensation plan must offer fair and equitable compensation both to individuals and to the community. Specifically, this plan must help victims of crime return to their normal lives as soon as possible and under the best conditions possible. Assistance, particularly financial, must adequately cover the victim's physical and psychological injuries, and, in certain cases, the scars of their close relatives. This is a complement to its responsibilities in terms of protecting against risk, specifically preventing and controlling crime, and reintegrating offenders into society.

The Québec Ombudsman believes that the obsolescence of the legal framework needs to be addressed to correct inequities that have been created over time.

To this end, it recommended to the taskforce that:

bodily injury and the loss of income be compensated separately;

compensation for bodily injury be paid in a lump sum, irrespective of the victim's income;

victims of crime who are unemployed at the time of the incident be compensated using the same principles governing the treatment of traffic accident victims who are unemployed at the time of the accident;

the amount of compensation and eligibility criteria be the same for students who are victims of crime as for students who are compensated under the *Automobile Insurance Act*;

it evaluate the possibility that funeral expenses covered by the government under different compensation plans be harmonized;

the payment of death benefits correspond to the provisions of the *Automobile Insurance Act*;

the list of infractions provided in the appendix to the law be updated;

the appendix to the law may henceforth be amended by Ministerial Order or by regulation;

victims who are unsatisfied with a decision rendered after a review have the opportunity to contest it before the Tribunal administratif du Québec;

the period of limitation for presenting a claim for compensation be set at three years from the date of the offence, the appearance of the injury or the death;

interest be paid when administrative rules are revised by the Bureau de révision administrative IVAC-Civisme of the Commission de la santé et de la sécurité du travail and varied or quashed by the Tribunal administratif du Québec.

Initially, the taskforce report on the review of the compensation plan was expected on March 31, 2007. It has been postponed to June 2007. The Québec Ombudsman wishes to ensure that this time, the review of the crime victims compensation plan delivers concrete, positive results for victims. The Québec Ombudsman will watch for any change in the rules of coverage or in direct services to victims.

COMPENSATION FOR THE WRONGFULLY CONVICTED

There is no disagreement about the tragedy of wrongful conviction and serving an unwarranted prison sentence. The resulting losses are significant: loss of the fundamental right of freedom, loss of private life and the enjoyment of life, damage to one's reputation, humiliation, loss of income, the prolonged effects of imprisonment, and the impact on close relatives.

The Québec Ombudsman has studied the cases of victims of wrongful conviction and imprisonment, and intends to issue recommendations to the Minister of Justice to address the situation.

Regardless of the limited number of known or anticipated cases of wrongful conviction, the degree of harm justifies this intervention, particularly given that there are so many secondary victims for each case.

REVIEW OF AMOUNTS AWARDED IN SUPPORT

The Québec Ombudsman believes that debtors and creditors of child support would benefit from the relaxation of rules regarding reviews of these payments. It intervened on this matter twice in 2004. The first time was before the Committee on Institutions for the study of Bill 21, *An Act to amend the Civil Code and the Code of Civil Procedure as regards the determination of child support payments*, and the second time was before the Comité de travail chargé de la révision de l'aide juridique. In December 2005, it took another look at this matter in a letter to the Minister of Justice.

Today, citizens still have to obtain a judgment from Superior Court to make the slightest change to established support payments. Even if their agreement is approved by a special registrar with the same enforceability of a Court decision, there are still costs involved: legal fees, service fees and lawyer's fees. Of course, many members of the public cannot afford these fees. Furthermore, certain situations—for example, when the parties agree on the amount of support payments —simply do not warrant a court application.

The Department has informed us that it is still studying this matter and hopes to complete its evaluation by fall 2007. The Québec Ombudsman will continue to monitor progress.

Recommendation

That the Civil Code and the Code of Civil Procedure be modified to relax the process for reviewing child support.

THE DIRECTEUR DE L'ÉTAT CIVIL

The Directeur de l'état civil is a public officer whose duties derive from the Civil Code of Québec. Its administrative organization within the Québec public service is the responsibility of the Ministère de la Justice.

The Directeur de l'état civil is the sole officer of civil status authorized to draw up acts of birth, marriage, civil union and death that occur in Québec or that concern persons domiciled in the province. It is the Directeur's responsibility to issue authentic documents related to these events, as well as copies and attestations, in a secure manner.

The Directeur keeps the register of civil status acts up to date with relevant judgments and changes originating here or elsewhere. It authorizes the consultation of the register.

As part of its duties, the Directeur processes changes of name and sex designation. It also keeps up to date a register of persons authorized to solemnize marriages and civil unions.

THE BALANCE BETWEEN SECURITY REQUIREMENTS AND QUALITY OF SERVICE

The Directeur de l'état civil issues documents that provide access to public services and that are required for obtaining driver's licenses, Canadian passports and other documents. As a result, it must pay constant attention to security upon registrations and in issuing copies and certificates of civil status. Since the beginning of 2006-2007, the Québec Ombudsman has noted that the Directeur has taken concrete measures to better reconcile security requirements with quality service.

Representatives of the Directeur de l'état civil and the Québec Ombudsman held many working sessions during the year. These sessions provided an opportunity for the Québec Ombudsman to note improvements in the time required to issue documents, phone access, counter service, publicity regarding attestations, the processing of complaints and the implementation of a new request processing system.

Complaints Reviewed by the Québec Ombudsman

Directeur de l'état civil	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	53	57	26	31

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Our statistical analysis confirms the impact of improvements made by the Directeur de l'état civil in 2006-2007. The number of grounds for substantiated complaints dropped by 75% over the previous year. Of the 31 substantiated complaints this year, most were filed during the first three months of the financial year, and concerned access by phone and delays in issuing documents—problems that were solved during the summer of 2006. It should also be noted that no complaints were received related to the implementation of a new computer system last September.

THE DISSEMINATION OF INFORMATION ON THE SERVICES AVAILABLE

The Civil Code of Québec grants citizens the right to confirm the presence or absence of an act or mention made in the register of civil status. This attestation is different from a certificate of civil status, which can only be issued to people mentioned in them or who can prove a legitimate interest. In certain situations, it can be important to confirm information about another person entered in the register. An attestation can, for example, confirm that one's future spouse is not married, or that he or she is divorced.

And yet, many citizens are not aware that such attestations can be issued. The Québec Ombudsman has highlighted the importance of disseminating information about this service a number of times in its annual reports. In 2006, the Directeur de l'état civil added a section to its Web site informing the public of this service while providing at the same time a form to request an attestation.

NEW STATUS FOR THE COMPLAINTS OFFICER

Last year, the Québec Ombudsman noted the efforts of the Directeur de l'état civil to make its complaint service more visible. This year, the Directeur went one step further. It hired an officer responsible for processing complaints and granted the officer new status: the officer now reports to the Directeur. The officer's jurisdiction was also expanded, as suggested by the Québec Ombudsman.

The Québec Ombudsman has noted that the Directeur de l'état civil has improved its Web site, which now provides clearer information on filing a complaint.

CERTIFICATES OF CHANGE OF DESIGNATION OF SEX

In 2004, following a complaint, the Québec Ombudsman intervened in an effort to make a legislative amendment to bill 59, *An Act to amend the Civil Code as regards marriage*. It asked that a person born in Québec and domiciled outside of the province be able to obtain a certificate of change of designation of sex from the Directeur de l'état civil. The law in effect allows only people domiciled in Québec to obtain this certificate. The amendment was not added to Bill 59; the Directeur de l'état civil intends to soon ask for an amendment to the Civil Code of Québec to correct the situation. The Québec Ombudsman still believes the amendment is necessary.

OPENNESS TO CULTURAL COMMUNITIES

In its 2004-2005 annual report, the Québec Ombudsman suggested that consideration be given to amending article 51 of the Civil Code of Québec so that it reflects cultural specificities in registering the name of a newborn. This suggestion was not followed. After another complaint received in spring 2006, the Québec Ombudsman intervened once again.

A citizen wants to masculinize her son's surname

The Directeur de l'état civil did not allow a mother of Polish origin to masculinize her son's surname, which is a custom in her community of origin.

While the Directeur de l'état civil's position is in keeping with article 51 of the Civil Code of Québec, the investigation showed that it does not inform members of the public that another option is available. If the Directeur cannot, by virtue of the law, grant a request regarding the name of a newborn when his or her birth is registered, the parents may, for serious grounds, obtain a name change through administrative means for approximately $350.

In effect, according to Superior Court, the grounds for "masculinizing the surname of her son, according to the traditions and customs of Québec's Polish community, are sufficiently serious grounds and are far from constituting a whim or fancy."[1] As a result, the Directeur de l'état civil should have advised the citizen of the option of asking for a name change for the child to masculinize a portion of his surname.

The Québec Ombudsman succeeded in having a name change accorded through administrative means. Furthermore, the Directeur de l'état civil has changed its practices. Now when a request is denied in accordance with article 51 of the Civil Code, the parents are told that they can ask for a name change.

The Directeur de l'état civil advised the Québec Ombudsman that it eventually plans to recommend amending the provisions of the Civil Code of Québec that govern the registration of births to take into account the customs of countries of origin. The Québec Ombudsman also believes that these amendments are required to adapt the management of civil status to the contemporary reality of Québec.

THE SERVICE STATEMENT

The Québec Ombudsman believes it is important for public agencies to make their commitments to the public known. The Directeur de l'état civil has not had a Service Statement since the Ministère des Relations avec les citoyens et de l'Immigration was abolished and integrated with the Ministère de la Justice in February 2005. However, the processing time for requests for certificates is announced on its Web site. The Directeur de l'état civil has indicated to the Québec Ombudsman that by the end of 2007 it will publish on its Web site a statement of commitments, which will be reiterated in whole or in part in the Service Statement of the Ministère de la Justice when it is updated.

1/ B.M. v Le Directeur de l'état civil (C.S. April 3, 2003) AZ - 03021696

Recommendations

The Québec Ombudsman recommends:

That the Civil Code of Québec be amended so that a person born in Québec can ask the Directeur de l'état civil for a certificate of change of designation of sex even if he or she is no longer domiciled in Québec;

That it also be amended to take into account the traditions and customs of new immigrants and members of cultural communities with regards to patronymics upon registration of a birth in the register of civil status.

The Ministère des Ressources naturelles et de la Faune

The Ministère des Ressources naturelles et de la Faune is responsible for managing Québec's land and natural resources. Its mission revolves around fostering the development and preservation of land and natural resources in Québec, as well as generating related information, with the prospect of sustainable development and integrated management for the benefit of the province's citizens.

The department primarily acts in the following areas: the territory, wildlife, forests, mines, energy, publication in the Land Register of Québec and cadastral reform.

A NEW ADMINISTRATIVE STRUCTURE

In 2006, the department changed its administrative structure to better integrate and coordinate the administration of regional files and services. The Québec Ombudsman notified the department that it would closely monitor the impact of this administrative restructuring on services to citizens.

Agence de l'efficacité énergétique

In 2006, the Ombudsperson wrote to the Chair of the Parliamentary Committee on Labour and the Economy Ombudsman to offer her comments regarding Bill 52, *An Act respecting the implementation of the Québec Energy Strategy* and amending various legislative provisions. Under this legislation, the Minister proposed changing the status of the Agence de l'efficacité énergétique's personnel so that they would no longer be subject to the *Civil Service Act*. Given that this agency extends public services directly to citizens, the Ombudsperson asked that the Institution's right to oversee the Agence be strictly maintained, but did not render an opinion on the merits of changing the personnel's status. This recommendation was adhered to, and the *Public Protector Act* was modified to specifically include the Agence.

Complaints Reviewed by the Québec Ombudsman

Ministère des Ressources naturelles et de la Faune	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	25	28	25	3

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Three activity sectors involve more direct contacts with citizens and are subsequently more often implicated in complaints submitted to the Québec Ombudsman.

The wildlife sector mostly generates complaints related to the delivery of licences and the actions of wildlife officers on the territory. As regards the management of public land, citizens contest, among others, leasing costs and procedures, along with sales and leasing criteria. In the area of property information, cadastral reform activities generate the most complaints.

CADASTRAL REFORM

A few citizens communicated with the Québec Ombudsman regarding cadastral reform. Some of them claimed that mistakes had been made in the reform or that the department refused to make a cadastral reform as per their request.

The Québec Ombudsman's mandate in this area only allows it to determine whether the department properly fulfilled its duties. It must notably ensure that the department has thoroughly analyzed the file and adequately verified the work done by the private surveyor. It must also check that department directives regarding surveying and the legal framework have been adhered to. The Québec Ombudsman cannot directly contact professionals in private practice, nor it can provide professional advice to citizens. It cannot, furthermore, perform technical assessments or reach a decision in the case of uncertainty or dispute regarding property rights.

In 2006-2007, none of the complaints reviewed with regard to cadastral reform were found to have substantiated grounds. Our investigations revealed that most of these complaints involved ambiguity, mistakes or private disputes unveiled by the reform rather than caused by it. Certain malcontent citizens had faulty knowledge of the land register, likely because it is essentially based on somewhat complex legal and technical concepts. In all cases reviewed, the Québec Ombudsman strove to foster greater public awareness while referring citizens to qualified advisors or the appropriate remedies. Given that cadastral reform can potentially impact all citizens who own land, the Québec Ombudsman will remain attentive to this issue by continuing to receive complaints and granting them the necessary attention. This will enable it to identify any new problems while making sure citizens have access to adequate information.

Same response, but justified this time

A citizen complained to the Québec Ombudsman after the Ministère des Ressources naturelles et de la Faune denied his request to redevelop a road located on public land. The department based its decision on potential road safety risks, and a desire to maintain the orientation of the public road access and the protective belt bordering it. Upon reviewing the file, the Québec Ombudsman concluded that the department's refusal was based on an incomplete analysis, given the lack of an objective assessment of the impact of the requested redevelopment. Moreover, the requirement to maintain the existing access road and protective belt orientation did not ensue from any known legislative, regulatory, or administrative provision or standard. Consequently, the Québec Ombudsman deemed the response inadequately substantiated, considering that it was not based on solid enough grounds. It subsequently contacted the department and asked that the case be reviewed.

The department acceded to the Québec Ombudsman's request and conducted a second analysis, which also resulted in a refusal. In this instance, the Québec Ombudsman concluded that the analysis was performed according to good practices, and the decision was adequately justified. It asked the department to provide the citizen with specifics as to its rationale for denying the request.

The Québec Ombudsman had no reasonable grounds to question the merits of this second decision. Its action, however, did result in all elements central to the file being taken into account and the citizen receiving a detailed explanation.

Coordination and standardization of methods

To start up a sawmill on public land, a citizen must first obtain various authorizations from the Ministère des Ressources naturelles et de la faune. He must notably negotiate a rental lease and an agreement to use public land. The citizen in question submitted his request for a lease in October 2005 and that for the agreement in March 2006. In July 2006, after a number of exchanges with the regional directorates involved and subsequent to having communicated with the department's complaints office, the citizen contacted the Québec Ombudsman to decry the seemingly endless delay.

A review of the file uncovered that the delays involved were in fact outrageous and, furthermore, had an impact on the potential spin-offs—investments and jobs—from the citizen's project. Nevertheless, the department was not solely at fault, as a number of factors came into play.

In some ways, the department could have been more careful and diligent. For example, it would have been beneficial had all of the regional directorates involved—public lands, forest and wildlife—communicated with one another earlier on. They could have quickly exchanged information and harmonized their approaches, particularly regarding contacts with outside parties. Other delays, however, were not entirely or at all caused by the department. One such example was a new requirement, ensuing from recent Supreme Court decisions, whereby Aboriginal communities must be consulted.

The Québec Ombudsman asked the department to ensure that the remaining steps be conducted as speedily as possible. It then proceeded to closely monitor progress in this case with the regional directorates, exchanging with them regarding the possibility of issuing temporary authorizations to enable the citizen to launch his business activities in the short term.

The Québec Ombudsman's actions were successful. In December 2006, the citizen received the necessary authorizations to cut a limited amount of wood and temporarily occupy the territory. One single regional directorate coordinated all subsequent activities and organized a meeting with the citizen to avoid further delays in the granting of permanent authorizations.

The events addressed by this complaint illustrate the importance of coordinated and harmonized actions within a given public agency. In this specific case, the Québec Ombudsman noted that, from the onset, better internal communication and a joint analysis of the file by the three regional directorates would have allowed for faster processing of the request and minimized impacts on the citizen. This logic applies to all situations involving several departments or agencies.

Recommendations

The Québec Ombudsman recommends:

That whenever the Government makes a decision calling for it to exercise its discretionary authority, it should be sufficiently reasoned so that its grounds can be well understood by the citizen. This will have the effect of keeping arbitrary decisions or any semblance of arbitrary decisions to a minimum, while ensuring respect for the principles of *An Act respecting administrative justice*.

That a person be designated as "in charge" whenever more than one administrative unit is involved in a file. This person will be accountable for ensuring that actions are coordinated, and will serve as the primary contact in dealing with the client. Such a recommendation can easily be implemented under the existing legal framework.

The Ministère de la Sécurité publique

The mission of the Ministère de la Sécurité publique is to ensure the Québec population lives in a safe environment that fosters its collective development, where individual rights and freedoms are respected. The Department acts particularly in the field of prevention, the fight against crime, management of correctional services, and the field of civil protection.

CIVIL PROTECTION

Part of the mission of the Ministère de la Sécurité is to develop the national civil protection plan. It is responsible for coordinating government action and the administration of financial assistance programs in this field. In this regard, its job is also to inform, support and advise government departments and bodies, citizens and municipalities.

Since the *Civil Protection Act* came into force in 2001, the division of responsibilities as regards civil protection has been clearly established. Citizens are the first line of responsibility for their own security. In the event of a disaster, municipalities are the authorities responsible for introducing and managing emergency measures in their territory. They must establish a framework for civil protection. Municipalities must be able to rely on support from government resources coordinated by the Department.

Complaints Reviewed by the Québec Ombudsman

Civil potection	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	6	8	6	2

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Complaints from citizens generally concern the administration of financial assistance programs. The grounds for dissatisfaction may be eligibility for programs or the amount of assistance offered.

Erosion of the banks of the St. Lawrence

In 2006-2007, management of the erosion of the banks of the St. Lawrence represented a significant problem involving the Department by virtue of its responsibility for civil protection. The Québec Ombudsman made an official intervention on the issue. The main functions of the Department in this matter are the coordination of government action, provision of information to municipalities and citizens, and the preventive component of its financial assistance programs.

In spring 2006, two citizens' committees from the North Shore region approached the Québec Ombudsman in connection with government management of the erosion of the banks of the St. Lawrence. Their initiative was mainly aimed at the Ministère des Affaires municipales et des Régions and the Ministère de la Sécurité publique, which at the time were in joint charge of the file. In November 2006, the Conseil des ministres handed over coordination of the file to the Ministère de la Sécurité publique.

At the end of its analysis, the Québec Ombudsman ruled that there were no grounds for intervening in respect of these committees' specific requests. Among other things, it had no reasonable grounds for challenging the analysis of the situation presented to it. In addition, some complaints concerned decisions taken by local or regional authorities, over which it has no jurisdiction. However, two elements of the file caught its attention and were the subject of an official intervention: the quality and timely availability of information, and the government intervention plan.

From 2000 to 2004, a committee of experts studied various aspects of the phenomenon in order to characterize the situation. This committee was acting under the supervision of a coordination committee representing the five main departments concerned: the Ministère des Affaires municipales et des Régions, the Ministère de la Sécurité publique, in its civil protection responsibility, the Ministère des Transports, the Ministère des Ressources naturelles et de la Faune, and the Ministère du Développement durable, de l'Environnement et des Parcs.

In the fall of 2004, information on the risks identified was passed on to local authorities and citizens. Subsequently, citizens had access to fuller and more detailed information only in June 2006, when the expert committee's report was published.

For close to two years, then, citizens—having been informed of the presence of risks affecting the safety of their families and their property—received no information on concrete action to be taken, or on the intentions of local and government authorities. Nor was there any information on the sharing of responsibilities between the numerous actors. During this period, municipalities and regional county municipalities received only preliminary guidelines on land use planning. According to the information that the Québec Ombudsman was able to obtain, they were still awaiting definitive orientations in December 2006.

In view of the above, on August 31, 2006, the Québec Ombudsman wrote to the deputy ministers of the Ministère des Affaires municipales et des Régions and the Ministère de la Sécurité publique in order to satisfy itself that its concerns would be considered in future decisions and actions. In doing so, it pointed out the vital importance, given the nature of the matters at issue, of keeping the publishing informed in an accurate, complete, understandable and timely manner. It stressed the necessity of making citizens aware of their responsibilities, of assistance available to them, and of the measures that concern them. It also underlined the need to provide municipalities and regional county municipalities with the working and communications tools they need to fulfill their roles as regards civil protection, land use planning and services to the public. Furthermore, the Ombudsman reminded the deputy ministers that all players must have quick access to clear information concerning the sharing out of responsibilities, as to the coordination of interventions, the programmes set into place and to the development of knowledge. Lastly, the Ombudsman pointed out that the government intervention plan should be announced and implemented as quickly as possible.

On November 30, 2006, the government announced a risk prevention framework governing the management of various natural phenomena such as ground movement, flooding and erosion of shorelines. The framework defined three main stages in the management of this file, namely analysis and communication of the risk, identification and choice of solutions, and implementation of solutions. A sum of $55 million over five years has been set aside for carrying it out, including $26.6 million for erosion of banks.

At the present time, the Québec Ombudsman is not completely reassured. After analyzing the published framework and meeting with representatives of the Ministère de la Sécurité publique, it has found no guarantee that its concerns regarding information to citizens and consultation among actors have been given effective consideration. Consequently, it will monitor this file in order to satisfy itself that its concerns will be reflected in the implementation of the prevention framework and the concrete actions of the departments concerned.

The Québec Ombudsman considers that the erosion of the banks of the St. Lawrence is an issue of great concern. On the North Shore, among other places, the phenomenon threatens many properties and infrastructures. It has a direct effect on the safety of many citizens living in 4 regional county municipalities, 31 municipalities and 7 aboriginal communities. In addition, the erosion of banks is not limited to the North Shore region and carries major economic risks. In the reasonably near future, the government and its partners will probably be called upon to intervene in other regions of Québec.

Recommendations

With regard to the implementation of the Government risk-prevention framework for the prevention of natural hazards, more specifically erosion of shores, and given that this issue involves various departments, it is recommended:

- That the coordination of all government actors be a priority at all times, given the scope and complexity of this issue;
- That all these actors adapt their working methods and participate actively, at the appropriate time and in a harmonized manner, in the search for concrete solutions and in supporting affected citizens;
- That all the departments and organizations involved make known the concrete actions they will take, including information to the public, as soon as possible;
- That all the departments and organizations concerned adopt a schedule of work with known deadlines;
- That any other department, organization or authority that intervenes in the file on an ad-hoc basis act in the same way.

Comments of the Ministère de la Sécurité publique

The Ministère de la Sécurité publique recognizes that the governmental coordination entrusted to it as a function of its civil protection role is a key factor in the success of the risk prevention framework. Moreover, steps taken to communicate the risk to regional and municipal authorities and, ultimately, to the citizens concerned must be carefully orchestrated because of their importance. This is the spirit in which implementation of the risk prevention framework—involving the Ministère des Transports, des Affaires municipales et des Régions, the Ministère du Développement durable, de l'Environnement et des Parcs, and the Ministère des Ressources naturelles et de la Faune—has been operating since November of last year.

Communicating the risk, an activity with which Services Québec is associated, represents a crucial step in the management of the prevention framework. Accordingly, responsibility for communications has been handed over to subcommittees of regional civil protection organizations in order to keep municipal circles and the public well informed.

Furthermore, an inter-ministerial governance structure has been set up. This is aimed at ensuring that the prevention framework is managed in a concerted fashion and that government action in prevention initiatives over the next four years is consistent. Moreover, the Ministère de la

Sécurité publique is proposing to municipalities a concerted approach beginning with cost-benefit analyses, a decision-making tool that will help them analyze solutions open to them and choose the most appropriate.

In this regard, the Department stresses that in March 2007 the inter-ministerial committee approved nine agreements that were signed with seven municipalities in three administrative regions. Coordination of these agreement is carried out at the regional level with the support of technical and scientific experts.

CORRECTIONAL SERVICES

The Direction générale des services correctionnels of the Ministère de la Sécurité publique is responsible for enforcement of the *Act respecting correctional services*, which has been replaced by the *Act respecting the Québec correctional system*, which came into force in February 2007.

Consequently, the Direction has the following responsibilities:

- the provision of pre-sentencing reports and any other information requested by the courts;
- the assessment of the persons committed to their custody;
- the supervision in the community and the care of the persons committed to their custody, until the end of their sentences;
- the development and implementation of programs and services that contribute to the reintegration of offenders, and the facilitation of access to specialized programs and services offered by community-based resources; and
- the carrying out of research in the corrections field, in conjunction with the other stakeholders.

THE ROLE OF THE QUÉBEC OMBUDSMAN IN RESPECT OF PRISONERS

In Québec, the Québec Ombudsman acts as a correctional ombudsman. This mandate—to monitor the activity of correctional services, and more specifically detention facilities—requires more than mere analysis of complaints lodged by prisoners or their families. It necessitates regular visits to places of detention and both preventive and remedial interventions.

Confinement in detention facilities involves a relationship of authority and dependence of prisoners towards actors in the prison environment. In this field, the State is invested not only with important powers but also important responsibilities. The respect for basic rights, in the context of detention, security and crowded conditions is more than just another obligation among many. The mission of the Québec Ombudsman is to monitor independently and impartially the manner in which Services correctionnels du Québec performs this mandate. This is a matter of finding immediate solutions to a variety of problems—problems of daily living that assume heightened importance in a detention context.

The Québec Ombudsman takes an interest in, among other things, the application and implementation of *An Act respecting the Québec correctional system*. Social reintegration, frequently presented as the best means of protecting the public, is among the fundamental objectives of this new act. For this reason, the Québec Ombudsman intervenes and will continue to intervene with a view to making incarceration, when it is resorted to, an opportunity for meaningful treatment of offenders at all levels and especially with regard to social reintegration.

A PORTRAIT OF THE CORRECTIONAL CLIENTELE

The most recent portrait of correctional clientele, ordered by the Ministère de la Sécurité publique, dates from 2002.[1] Here are some of the characteristics that emerged from this portrait:

The average age of prisoners in Québec detention centres was 35;

89% were male;

23% of offenders questioned had a high school leaving certificate while 9.4% had not finished elementary school. A very high proportion of those interviewed stated that they had dropped out of the school system before the age of 16. Among these respondents, 25% had left school before the age of 14;

46% of respondents stated that they were employed at the time they were sentenced. In 2003, employment assistance was the source of revenue of about 20% of the female clientele admitted into detention facilities;

39% of respondents said that drug or alcohol consumption was a problem for them at the time of the investigation. In 54% of cases, an offence had been committed under the influence of these substances;

1/ ROBITAILLE, C., GUAY, J-P & SAVARD, C. (2002). *Portrait de la clientèle correctionnelle du Québec en 2001*, Montréal, Société de criminologie du Québec, for the Direction générale des services correctionnels of the Ministère de la Sécurité publique du Québec.

13.8% of those interviewed stated that they had no fixed address, and 5% said that they were homeless;

51.5% of the correctional clientele said that they had seen a health professional for mental health related problems. Close to half had seriously considered suicide; 34% of detainees said they had attempted suicide.

Data from 1995, listed by the advisory committee to Emploi-Québec (2005),[2] indicate that close to 30% of correctional clientele are living with mental health problems.

2006-2007: A PIVOT YEAR

ENTRY INTO FORCE OF THE *ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM*

A long awaited implementation

An Act respecting the Québec correctional system was adopted in 2002 but only came into force on February 5, 2007. This keenly awaited reform of the normative framework will bring about many transformations in both correctional orientations and methods.

During study of the draft of *An Act respecting the Québec correctional system*, in 2002, the Québec Ombudsman submitted a position paper in which it stressed the importance of providing correctional services with the resources they need to carry out their mission fully. In its subsequent annual reports, the Québec Ombudsman asked on repeated occasions for this act is to be brought into force, which could not be done before today for lack of the required credits. It welcomes the efforts made by the Minister and the Ministère de la Sécurité publique, in a restrictive financial framework, to allow this reform to come into force, even in minimal conditions.

The principles of the reform

The Act introduces a new sharing of responsibilities between correctional services and the Commission québécoise des libérations conditionnelles. It also sets forth the mandate of correctional services with regard to assessing the risk level and the needs of offenders. An important role is given to community organizations as partners of correctional services.

2/ Comité aviseur pour la clientèle judiciarisée adulte. (2005). *Portrait de l'employabilité de la clientèle judiciarisée adulte ayant des problèmes de santé mentale.*

The Act also recognizes the rights of the victims of criminal acts. In particular, they can be informed of the parole date of an offender of whom they have been a victim. In certain circumstances, they will be given an opportunity to state their point of view in the matter.

Social reintegration is a collective responsibility: to achieve it, the collaboration of all actors, both of the government and the community, is essential. By increasing the importance placed on social integration, the Act imposes strict obligations on the Ministère de la Sécurité publique with regard to assessment and program administration. However, the current situation in detention facilities allows one to expect and foresee significant challenges in regards to the implementation of this new legislation.

Monitoring by and expectations of the Québec Ombudsman

The Québec Ombudsman is monitoring the application of this new regime. In this respect, throughout the past year it has been attentively examining preparation and training activities, and the creation of regulations and application directives.

It has found that the many transfers between facilities make it more difficult to invest in a continuous process of reintegration for detainees. These interruptions, combined with remoteness from family and close relatives, may compromise the success of projects to prepare for release, such as educational, professional or psychosocial training activities.

The Québec Ombudsman is also paying special attention to the many work sites that the Direction générale des services correctionnels has set up to ensure implementation of the reform. It has attended a number of meetings with personnel of the Direction. Its interventions are geared towards the results of these work sites which, for the most part, are expected over the next few years.

For the moment, the reform has led to the acquisition of a new tool for assessing risks of reoffending and the needs of people in the custody of correctional services. While assessment exercise is undoubtedly essential, the fundamental role of correctional services with regard to developing and providing programs aimed at social reintegration must be kept in mind.

Implementation of the reform began in February 2007, and it is too early to analyze its impact. However, its implementation must be subject to constant attention if it is to succeed. This reform promises positive impacts for the safety of the public and for social harmony in Québec.

It is both paradoxical and worrying that, in parallel with the reform's entry into force, access to programs and activities inside facilities is increasingly restricted. Services provided are under threat in particular from lack of funds. There is a discrepancy between the principles of the reform and the reality as perceived by the Québec Ombudsman during its investigations and interventions.

In order for the principles underlying the reform to be respected, the Québec Ombudsman considers it essential to maintain services provided in detention facilities and in the community. Equally, in the medium term, a wider offering of programs and services is necessary if the success of the objectives of social reintegration and prevention of reoffending is not to be compromised.

Recommendations

In view of the fact that knowledge of the profile and specific characteristics of the various categories of detainees is essential for making decisions and implementing adequate social reintegration measures, it is recommended:

That the relevance and effectiveness of social reintegration measures for detainees taken during their detention and on their release be reassessed, taking into account more specific needs, particularly those related to improvement of health, prevention of violence, and reoffending;

That this reassessment be followed by the adoption of government orientations for the social reintegration of detainees, together with specific measures arising therefrom;

That the portrait of correctional services clientele, in particular the social and penal characteristics of detainees, be better documented from 2008-2009 and brought up to date thereafter.

Comments of the Ministère de la Sécurité publique

- Since the research report "2001 Profile of Québec's Correctional Clientele" was submitted in September 2002, activities aimed at obtaining an ongoing portrait of the clientele have continued.

  With the implementation of *An Act respecting the Québec correctional system* (LSCQ), constitution of an ongoing portrait of correctional clientele and its characteristics has been a priority and will be included, on a recurring basis, in the research program of Services Correctionnels du Québec (SCQ).

- Implementation of the priorities for action set out in the "Document de réflexions et d'orientations portant sur les programmes, services et activités de soutien à la réinsertion sociale en établissement de détention" will be monitored over the coming years.

- In the framework of the implementation of the LSCQ, Services Correctionnels du Québec is finalizing a "Document de réflexions et d'orientations portant sur les programmes, services et activités de soutien à la réinsertion sociale en établissement de détention." This document, in addition to establishing the legal and normative framework, principles, and a report on the situation, sets out orientations and priorities for action regarding the implementation of articles 21, 22 and 23 of LSCQ. In addition, SCQ will shortly introduce a program developed in collaboration with representatives of university circles. This program is aimed at raising the awareness of offenders in detention and in the community, and developing their sense of responsibility.

  More specifically, a review of provincial instruction 4D3, *Soins de santé aux personnes incarcérées*, is planned for the fall of 2007. Special attention will be paid to the importance of ensuring the follow-up and continuity of health services on a detainee's release into the community.

  In spring 2006, the Minister of Health and Social Services and the Minister of Public Safety met and agreed to monitor the evolution of discussions and agreements reached between the correctional network, health and social services agencies, and centre de santé et de services sociaux (CSSS) in the Québec City and Chaudière-Appalaches regions. Participants in this meeting agreed to examine what is being done in these regions as regards physical and mental health care and social services (drug addiction, conjugal violence, sexual deviance, intellectual deficiency), in order to envisage the possibility of exporting these agreements to other regions of Québec. The Ministère de la Sécurité publique is currently waiting for a provincial representative of the Ministère de la Santé et des Services sociaux (MSSS) in order to begin this work.

PRISON CAPACITY

The state of overpopulation

2006-2007 saw the occupation rate in Québec detention facilities reach a new high, exceeding prison capacity.[3] Everything suggests that the situation is neither anomalous, nor temporary. Almost all facilities were regularly overpopulated, despite an increase in their operational capacity[4] over the past few years.

This increase in operational capacity was basically achieved by "doubling" cells, that is, replacing single beds with bunk beds in cells designed for a single inmate. Despite this increase in density of occupation, the operational capacity of Québec facilities has long been exceeded. The addition of beds, which was initially seen as a temporary expedient, has since 2003 become the norm.

The prison population in Québec facilities has been steadily increasing over the past 10 years. Although the number of admissions has fallen significantly in the past few years[5], the average daily population has continued to increase. The average daily present population of persons awaiting trial in 2005-2006 was 1,718.5, which represents an increase of 34.5% over 2000-2001. This increase and the substantial reduction in the average number of persons on temporary absences (from 1,069.2 to 317.3) have meant that the average daily population in Québec detention facilities stood at over 4,000.[6] Operational capacity in March 2007 was 3,767 places. During 2006-2007, total capacity was greatly exceeded on several occasions. Obsolete facilities are receiving more and more persons in excess of capacity.

In March 2007, in facilities for male clientele, there were 4,041 places available. The so-called operational capacity of these facilities, which represents use deemed to be secure, was established at 3,556 places for the same period.

3/ Prison capacity: the total number of beds that can serve to accommodate detainees. The term "actual beds" is also used to refer to this capacity, as opposed to the number of beds available (the number of actual beds minus the number of closed beds).

4/ Operational capacity: the maximum number of beds that can be used in regular fashion without compromising the legal and security framework. The Ministère de la Sécurité publique calculates operational capacity as 88% of the number of beds available.

5/ The total number of admissions for 2000-2001 was 43,911. In 2005-2006, it was 38,281.

6/ The average daily population was 3,231.3 in 2000-2001. Today it stands at 4,191.9.

On March 23, 2007, for example, the 16 facilities for male clientele housed a population of 4,100 persons, equivalent to an occupancy rate of 116% of operational capacity. On the same day, nine of these facilities had more inmates than beds available.

At the Amos facility alone, 101 men and one woman[7] were listed, whereas the total number of available places is 86, which corresponds to an occupancy rate of 118% of prison capacity and 134% of operational capacity. The population of the Saint-Jérôme facility stood at 120.2% of operational capacity and that of the Hull facility at 127.8%.

The impact of overpopulation on the network of facilities

Beyond these occupancy rates, management of beds in facilities is becoming more difficult and hazardous. In order to understand the amplitude of the problem, one needs to take into account the many constraints involved in prison management. Classification of inmates based on their status, detainees awaiting trial[8] and convicts, protection that has to be provided for certain individuals, and the presence of women temporarily incarcerated in facilities for the male clientele are among these constraints. Management must also deal with clienteles having specific needs such as criminalized groups and persons suffering mental health problems. Managing these realities in the context of overpopulation is highly complex and involves decisions whose impact must be carefully considered.

The Québec Ombudsman deplores the persistence of this problem, which it raised in a special report in 1999 and in all its annual reports since then. Unfortunately, not only has the situation failed to improve, but the Québec Ombudsman's investigations and visits have demonstrated that detention conditions have deteriorated.

In January, the Québec Ombudsman visited six detention facilities to observe in situ the consequences of overpopulation on detention conditions. This also afforded an opportunity to gather the point of view of interveners and inmates.

During these visits, the Québec Ombudsman observed the lack of space and shortage of beds available in common living areas. A large number of inmates are obliged to sleep on thin mattresses directly on the ground, notably in classrooms and gymnasiums.

7/ In certain situations, women may be temporarily incarcerated in facilities for men. They are isolated from the men in these cases.

8/ Persons detained by order of a court while they await the holding of their trial.

Some facilities are obliged to use admission cells, which are not equipped with proper sanitary facilities, to sleep inmates. The salubrity of admission cells, whose primary purpose is to serve as waiting areas, left much to be desired, particularly because several persons had to live there crowded together for several days and were detained 23 hours out of 24. The Québec Ombudsman also learned that some facilities used cells designed for isolation or reclusion because of lack of space in the hospital ward or other accommodation sectors.

In circumstances such as these, it is easy to imagine the challenge posed by managing intermittent sentences, normally served on weekends.

Lastly, the Québec Ombudsman noted that other facilities are obliged to give certain persons sleeping accommodation in sectors of the facility that also house persons of a different classification, with all the tensions that this brings. In this situation, managing security risks is complicated by the fact that inmates accommodated in a sector must be locked up in their cells in the evening, before another group is brought in to sleep in the available spaces. This operation is repeated very early in the morning, and inmates who have been transferred from another sector are obliged to move, carrying their personal belongings in a regulation paper bag, to another part of the facility so that the first group of inmates can come out of their cells for breakfast.

Considering that the increase in the prison population is constant and that all facilities have reached their full capacity, a number of actors and independent experts have expressed to the Québec Ombudsman their discomfort with solutions that can be envisaged. Adding a third mattress to cells designed for one person and permanently using gymnasiums as dormitories—which implies an end to social reintegration activities held there—are the last possible expedients for managing places in detention facilities as best one can.

Furthermore, managing overpopulation takes up a major part of managers' time. Currently, the multiplication of various procedures to maintain security in facilities, and transfers of excess inmates to other detention facilities severely limits follow-up and supervision of inmates.

Prospects for the renewal of penal infrastructures

On September 28, 2006, the Minister of Public Security announced that Société immobilière du Québec had been awarded the mandate to carry out preliminary studies of five penal infrastructure projects in the regions. On the same occasion, the Minister unveiled a renovation program for detention facilities in the Montréal region and associated investments of $55 million. Of this budget, $50 million is reserved for the renovation and construction of a new building at the Montréal detention facility, which will not create any new places. According to information received, work may not be completed until 2009.

If this work is carried out, the overall increase in prison capacity will be 338 places. However, this addition will not make it possible to reach sufficient operational capacity to handle the current average daily population. Consequently, the Québec Ombudsman considers that other avenues must be explored to face up to these conditions in the short and medium term.

The situation in the meantime

There are few simple, immediately applicable and inexpensive solutions for reducing the density of use of current infrastructures. The Québec Ombudsman considers that, given prison capacity, detention facilities no longer have the minimum margin for manoeuvre needed to adequately perform their mission and that all personnel are working in very difficult and highly demanding conditions.

Recommendations

In view of the fact that, while we welcome the announcements of renovations of penal infrastructures, we note that they will be insufficient to counter the negative aspects of overpopulation;

In view of the fact that hygiene and salubrity conditions in detention facilities require immediate attention, it is recommended:

That the Ministère de la Sécurité publique work with the Ministère de la Santé et des Services sociaux to establish and implement without delay a plan to improve the salubrity of detention facilities, particularly from the standpoint of preventing disease and managing contamination risks;

That the Ministère de la Sécurité publique examine the layout of premises, in particular dormitory cells, so that basic conditions of living, dignity and respect for individuals are provided.

In view of the fact that, due to the growth in the number of inmates and the capacity of detention facilities, overpopulation has become an enduring situation;

In view of the negative impacts of the transfer of detainees on their social reintegration and the consequences for their families, and in order to limit this practice to urgent situations that cannot be dealt with in any other way;

In view of the fact that central management of transfers and releases for security purposes or because overpopulation is a complex and demanding task, it is recommended:

That correctional services acquire an integrated information management system that will facilitate the taking into account of all data relevant to management of transfers and releases;

That they ensure that practices are improved so as to avoid, or else minimize, the negative impacts of the transfer on health care received and on the social reintegration of detainees;

That correctional services take the measures necessary to enhance and tighten up existing practices for all foreseeable short-term transfer cases, including management of absences for court appearances and returns to facilities of origin.

Comments of the Ministère de la Sécurité publique

- In fall 2007, as part of work being carried out in collaboration with the Direction de la santé publique du Québec, updates to the *Politique relative aux maladies infectieuses en milieu carcéral* and the *Politique relative aux services de santé à la clientèle correctionnelle* are planned. These will take into account the salubrity of detention facilities.

  In addition, hygiene measures are already being discussed with the Ministère de la Santé et des services sociaux (MSSS), particularly when risk situations are identified. Also, SCQ has tabled its continuity plan in the event of a flu pandemic, which can be extended to all situations where there is a risk of the spread of infectious diseases. This plan provides for preventive measures related to salubrity. The implementation of this plan will be dependent on credits granted.

- Services correctionnels du Québec (SCQ) has assessed all its infrastructures and has tabled its planning framework which, stretching over 15 years, identifies priorities that target, among other things, the replacement of obsolete facilities (including those having cells without sanitation) and the progressive elimination of the use of dormitories.

- SCQ already has an integrated process for the management of information relating to management of transfers and absences. It should be stressed that granting absences is not used as a means of managing overpopulation.

  Also, SCQ is using certain inter-regional transfer mechanisms aimed at minimizing the impact on the prison population while complying with its social reintegration mission. Detainees can therefore be closer to their families and community resources that are able to support them in their progressive reintegration process.

  Already, certain improvements in practices have been introduced, particularly the obligation to send a medical record for the detainee to the receiving facility at the time of a transfer between facilities, if possible the day before the transfer takes place. In some facilities, including that of Rivière-des-Prairies, the facility's health care service is consulted before a transfer is authorized. The detainee will remain in the facility, particularly if a meeting with a physician is scheduled. The update to instruction 4D3 will also take this aspect into account.

- Transfer practices are based on an assessment of the files of detainees and decisions take a number of factors into account.

OFFENDERS SUFFERING FROM MENTAL HEALTH PROBLEMS: THE SITUATION UNDER STUDY

These findings have led the Québec Ombudsman, in its capacity of correctional ombudsman, to examine the situation of offenders suffering from mental health problems, whose numbers are increasing in Québec detention facilities.

Managing them poses an increasing challenge, which calls upon not only the Ministère de la Sécurité publique, but also the Ministère de la Santé et des Services sociaux. The Ministère de la Justice is also concerned at another level.

The Québec Ombudsman is examining the reasons why such a large number of people suffering from mental health problems regularly, and sometimes repeatedly, find themselves behind bars. The situation has multiple repercussions, not only on the detainees, but on their families and on workers in detention facilities. Beyond these primary considerations, preparing them for social reintegration in a manner adapted to their state of health, for their own benefit and that of all citizens, is compromised.

There is a crying need for health services adapted to the situation of these citizens. They must not be deprived of the care they require by reason of their imprisonment. The health and social services network must also assume responsibility for providing them with the health and services necessary to ensure that their state of health, at the very least, does not deteriorate but also improves.

In this regard, the Québec Ombudsman wishes to highlight the joint initiative of the justice, civil protection, and health and social services networks of the Québec City region aimed at persons suffering from mental disorders who have to undergo a judicial experience, either in a penal facility or in open custody. This agreement, reached in May 2006, is designed to improve the accessibility and continuity of front-line services at the time of referrals from the correctional environment to the health and social services network.

This initiative, which includes specialized training for actors in the various networks, is the expression of a desire to correct a problem that has persisted for several years. The results obtained following application of the agreement should be assessed with regard to its relevance for other regions of Québec.

During the past year the Québec Ombudsman has undertaken a study of all the procedures and situations that lead persons with defective mental health into prison. This study should enable us to assess in a global, rigorous and impartial manner the response that public services can bring to the complex needs of these citizens, managing whom requires consultation, risk management and medium-term vision.

INTERVENTIONS OF THE QUÉBEC OMBUDSMAN

VISITS TO FACILITIES

During 2006-2007, the Québec Ombudsperson held working sessions with the authorities of four detention facilities. These meetings gave rise to exchanges with managers, interveners (including correctional officers), and inmates.

Also, as part of regular activities, 14 visits were made to 11 facilities during the year. These visits were an opportunity to observe the condition of the premises, and to hold discussions with management of the facility, officers in charge of a particular sector and inmates.

THE IMPACT OF BUDGET RATIONALIZATION MEASURES

Although in April 2006 investment was announced to allow the application of the new Act, since September detention facilities have had to adjust to the imposition of an additional rationalization effort.

In some facilities, measures have had the effect of limiting or barring access to gymnasiums. As a result, therapeutic activities that had been held there, such as those of Alcoholics Anonymous and Narcotics Anonymous, have been suspended. Among the measures adopted in some facilities are reduction and rearrangement of visiting hours. The Québec Ombudsman intervened at a facility to invite management to look for an alternative to closure of the gymnasium, which compromised the holding of conjugal violence prevention sessions, among other things.

These decisions do not fit well with the objectives set by the new Act.

PREVENTIVE INTERVENTION

Examining a new regulation is a major exercise, in which experience acquired through daily contact with inmates, the staff of detention centres and civil servants tasked with implementing the Act can prove useful. In addition, the adoption of a new legal framework is an opportunity for analyzing the application instructions and directives adopted by the Department. These complete the normative framework that serves as a foundation for the actions and decisions of correctional officers and managers of detention facilities. The Québec Ombudsman has studied the draft regulation in detail and wishes to highlight the collaboration it received from the Ministère de la Sécurité publique at all levels in doing so. It commented on all the draft instructions that the Department submitted to it. A number of its recommendations were taken up.

THE *REGULATION UNDER THE ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM*

The draft *Regulation under the Act respecting the Québec correctional system* was published on November 15, 2006. In December, the Québec Ombudsman recommended a number of modifications.

Further to these recommendations, the government agreed, in particular, to reinsert the previously enacted principle that depriving a detainee of freedom and disciplinary sanctions are the only measures that can be taken against him or her.

In addition, it amended the wording of the regulation in order to clearly provide for the right of detainees to benefit from at least one hour a day of physical exercise outdoors. Lastly, the regulation maintains the confidentiality of written communications between detainees and the Québec Ombudsman.

The Ministère de la Sécurité publique has indicated that several of the recommendations of the Québec Ombudsman would be taken into account when formulating application directives that were the source of other interventions by the Ombudsman, the main ones being:

Directive on mail between inmates and the Québec Ombudsman

Further to recommendations from the Québec Ombudsperson, the draft *Regulation under the Act respecting the Québec correctional system* was modified with regard to the examination of mail between the Québec Ombudsman and inmates. Correctional services adopted a secure procedure for the management of correspondence that guarantees the confidentiality of such exchanges and their origin.

Instruction on preventive isolation

The Québec Ombudsman issued various recommendations and comments further to its analysis of a draft instruction on the preventive isolation of inmates. The main points addressed were:

- clarification of the notion of reasonable grounds;
- actuation of the right to review for illiterate persons;
- time taken to review preventive isolation decisions by the facility's director;
- verification by a qualified person of the physical and mental health of persons placed in isolation;
- creation of a provincial data registry on the use of the preventive isolation measure.

With the exception of the recommendation concerning the data registry on the use of preventive isolation, the above recommendations by the Québec Ombudsman were accepted and the instruction was modified accordingly.

The Québec Ombudsman also intervened in respect of three further draft instructions: that on the disciplinary process, that on inmates' rights to visits, and that on the complaint processing procedure.

FOLLOW-UP ON THE 2005-2006 ANNUAL REPORT

INMATES SUBJECTED TO AN ABUSIVE SEARCH RECEIVE AN INDEMNITY

In its annual report of last year, the Québec Ombudsman cited a case of two inmates who were subjected to illegal searches. In August 2006, the authorities concerned confirmed that each of the victims will receive compensation of $5,000.

Complaints Reviewed by the Québec Ombudsman

Correctional services	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	1438	1588	1081	507

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

A large number of complaints made by inmates were related to problems involving multiple factors. During 2006-2007, the subjects of complaints essentially fell into the following categories:

Health care: 25%
Loss of rights or privileges: 12%
Accommodation conditions: 9%
Transfers and transportation between facilities: 9%
Loss of personal belongings: 8%
Classification of inmates: 8%
Services and activities: 7%
Conduct of officers and complaints of maltreatment: 5%
Management and calculation of sentence: 5%
Security measures: 3%
Procedures regarding permission for absence: 3%
Discipline: 3%
Complaints processing procedure: 3%.

Three main problem areas have been observed in the processing of complaints:

1. inadequate monitoring and supervision of inmates
2. insufficient coordination of services within facilities
3. adverse effects of transfers

1. MONITORING AND SUPERVISION OF INMATES

In the course of its investigations, the Québec Ombudsman found that there was insufficient availability of correctional services officers to supervise and monitor the activities of offenders. Citizens who had been incarcerated for several weeks stated that they had had no contact with their assigned officer or complained of the time taken to receive a reply to requests for information.

Overpopulation in Québec detention facilities increases the complexity of security measures and adds to the workload of correctional services officers in this respect.

Activities aimed at providing control and security for persons that are the responsibility of Québec correctional services are of vital importance. Officers must also take on a range of tasks related to supporting persons during their sentence and preparing them for their return to the community. They have little time to do this.

Recommendations

In view of the impacts of the role of correctional officers on the implementation of the Act and on the ability of facilities to carry out their entire mission, it is recommended:

- That the Ministère de la Sécurité publique establish a normal level of service for detention facilities in order to attain the objectives of the *Act respecting the Québec correctional system*, on the basis of the ratio between the number of a facility's full-time employees and the number of detainees;
- That it assess the gap between this normal level of service required to attain the Act's objectives and the current level of service, and take whatever measures are required to implement the Act.

Comments of the Ministère de la Sécurité publique

- Is not possible to establish, on the basis of a number of full-time or part-time employees, a standard level of service either with regard to *An Act respecting the Québec correctional system* (LSCQ) or to current operations, due to the organization of work and to the number of courts served, which differ from one detention facility to another. These disparities make it impossible to set an employee/inmate ratio.
- The financial resources and staff allotted by the Conseil du trésor in connection with the LSCQ were devoted exclusively to its implementation, independently of financial difficulties and the shortage of personnel observed elsewhere in the correctional network. Normal adjustments have been made to the initial planning, but always according to the implementation of the act.

  SCQ intends to raise the problems of financial and human resources encountered during a follow-up imposed by the Conseil du trésor in the first year following the Act's entry into force.

Waits, delays and omissions in assessments

During 2006-2007, a number of inmates of a Québec detention facility contacted the Québec Ombudsman to complain of long waiting times for the production of their assessment and the development of their correctional case management plan. In this connection, for the period from April to December 2006, i.e. prior to the new act's entry into force, the Québec Ombudsman examined 40 grounds for complaint. In the 27 files in which it took action, 21 complaints were deemed to be well founded.

Various working sessions were held with representatives of Services Correctionnels du Québec for the purposes of determining possible solutions. The Québec Ombudsman found that in summer 2006, in at least two facilities that frequently experience periods of overpopulation, probation officers had accumulated major backlogs in the production of assessments, with the result that they had difficulty in producing them in a timely manner. The fact that probation officers were not replaced during the summer period or under any other circumstances is also a factor. The objective was limited to completing assessments for the hearings before the Commission québécoise des libérations conditionnelles, when sentences are one third completed.

A number of complaints received by the Québec Ombudsman were from citizens whose requests for temporary absence could not be processed, because they had not been subjected to an in-depth assessment. In several cases, inmates were transferred to another facility even before meeting a probation officer for an assessment. In these circumstances, they assumed that they would be assessed by a professional in the receiving facility. This was not the case, and they must wait until they are returned to the original facility. In other cases, the hearing before the Commission québécoise des libérations conditionnelles was postponed because of the absence of an assessment.

On January 10, 2007, the Québec Ombudsman informed the Direction générale des services correctionnels of its concerns. As a result of its intervention, the Québec Ombudsman was informed, on March 29, 2007, that measures had been taken to shorten the time taken to produce assessments. Among the means used to achieve this aim are the temporary contribution of professionals working in open custody and the introduction of criteria aimed at prioritizing certain files.

Recommendation

In view of the fact that delays observed in completing assessments and developing correctional case management plans for inmates are of great concern,.because assessment is an important instrument in the implementation of the new act, it is recommended:

- That regular monitoring of assessment production times be carried out, with the aim of ensuring that the right of detainees to be assessed in a timely manner is respected, and with the aim of preventing the adverse effects of delays in assessment on their social reintegration.

Comments of the Ministère de la Sécurité publique

Following the signature in September 2004 of the administrative agreement between the Commission québécoise des libérations conditionnelles (CQLC) and Services correctionnels du Québec (SCQ) on operating modalities concerning the conditional release program, SCQ set up regular follow-up. With the entry into force of *An Act respecting the Québec correctional system* (LSCQ), this follow-up will be enhanced to take the new parameters into account.

Moreover, since the entry into force of the LSCQ, SCQ has called upon the services of prison counsellors to reduce production times.

Here are some examples of complaints examined during the year and deemed well founded by the Québec Ombudsman.

An inmate waits an unreasonable length of time for his assessment

At the time when the citizen contacted the Québec Ombudsman in November 2006, he said he had completed one sixth of his one-year sentence. He had been transferred to another facility a few weeks previously on account of overpopulation in his original facility. He complained that he could not be assessed by the detention centre where he now was.

The citizen was serving a first prison sentence for an offence that did not involve a crime against a person or property. His file stated that a job was waiting for him o utside. He maintained that his spouse, without sufficient income, was in danger of having their lease cancelled for non-payment of rent. The testimony of certain actors suggested that the citizen, once assessed, could obtain permission for temporary absence in view of the quality of elements in his file.

In spite of all this, he had to wait for his return to his original facility, which was unable to assess him more quickly for lack of staff. The citizen nevertheless made a request for temporary absence between the one-sixth point and one-third point of his sentence. His request was naturally refused by the facility's director, because the file did not contain the required in-depth assessment. The citizen appealed this decision to the Commission québécoise des libérations conditionnelles, as provided by the law at the time. The Commission upheld the decision of the facility's director, for the same reason, i.e. the absence of an in-depth assessment.

A few weeks later, the Québec Ombudsman learned that the citizen had finally been assessed just prior to the one-third point of his sentence. A conditional release was subsequently granted.

The right to declare a work-related injury and to make a claim

The Québec Ombudsman has already intervened and made recommendations in cases where a facility refuses to give inmates forms for the declaration of a work-related injury. Over the years, detention facilities have introduced corrective measures from time to time.

However, certain complaints received recently indicate that the problem persists. Access to a claim form is a right provided by law, and it is not up to the staff of detention facilities to decide whether or not an injury is attributable to an industrial accident or an occupational disease within the meaning of *An Act respecting industrial accidents and occupational diseases*.

Form not given despite repeated requests

An inmate working in the workshops of a detention facility declared that he had suffered an industrial accident. The facility's physicians saw him and referred him to the hospital for consultation, where he was placed on a waiting list for an operation. Despite his request, staff at the facility neither gave him nor completed a form from the Commission de la santé et de la sécurité du travail.

After steps were taken, at the request of the Québec Ombudsman, the facility's director reminded the staff concerned that access to such forms is a right. It is the sole duty of the Commission de la santé et de la sécurité du travail to decide whether there has been an occupational injury.

2. INSUFFICIENT COORDINATION OF SERVICES WITHIN FACILITIES

A number of complaints that the Québec Ombudsman has acknowledged to be well founded raise questions as to the effectiveness of coordination of resources, and communication between actors within a single detention facility or between facilities. This finding emerges from the examination of several complaints concerning very different subjects.

Although conclusions cannot be drawn for all services of detention facilities, the Québec Ombudsman notes that in a number of cases officers and other actors learned of the situation by virtue of the Ombudsman's intervention, when inmates had been complaining repeatedly for several days or even several weeks.

A sector left without surveillance for close to three hours

A person suffering from severe problems of diabetes was confined in a cell in a detention facility's admission sector. The person contacted the Québec Ombudsman to complain of the absence of surveillance. In the course of its investigation, the Québec Ombudsman learned that tasks had been reorganized because of overpopulation.

Whether tasks were poorly understood, or whether this was an oversight, the fact remains that an entire sector was left without surveillance for close to three hours. During this period, the plaintiff felt unwell and called for help, but nobody was there to answer him.

Further to this complaint, which the citizen lodged simultaneously with the Québec Ombudsman and the facility's complaints processing procedure, remedial measures were introduced, and normal surveillance of the sector resumed.

No winter coat available for an inmate

Many people held in Québec detention facilities are needy. The *Regulation under the Act respecting the Québec correctional system stipulates*, among other things, that appropriate clothing should be supplied to people who have none.

A citizen detained since May 2006 who received no support from friends or family members contacted the Québec Ombudsman. He asserted that he had no winter clothing. In October he had made a request for a loan of clothing, particularly a coat so that he could go out into the yard every day. The facility supplied him with a few articles, but told him that no coat or warm garment was available. The citizen was told at the same time that coats were only loaned to detainees awaiting a court appearance.

In January 2007, the citizen contacted the Québec Ombudsman, because he was still unable to go out into the courtyard. A number of actors at the detention facility confirmed that no coats were available for needy persons, in view of the excessive cost of articles of this nature.

After taking many steps, the Québec Ombudsman learned of the existence of about a hundred coats stored in premises used for procurement. During a subsequent meeting, the director of administration acknowledged that there had doubtless been a lack of communication between the personnel of the various branches concerned, with the result that the citizen was given wrong information. As a consequence, between the time of his first request in October and his release on February 5, 2007, the facility did not supply a coat to the citizen, thereby depriving him of his daily exercise in the yard.

On February 23, 2007, at the request of the Québec Ombudsman, the facility circulated a memorandum informing officers in accommodation sectors particularly that it was now possible to lend coats to needy persons.

3. ADVERSE EFFECTS OF TRANSFERS

Many transfers to other facilities are made because of overpopulation. In such a context, human aspects become a secondary consideration. As a result, a number of detainees contacted the Québec Ombudsman, hoping to be transferred back to the facility located in their home region.

The debate about the effects of incarceration on individuals and their families is not new. The Québec Ombudsman has had many opportunities to point out the effects of such transfers. The cases set out below, which represent only a few of many accounts received in the course of the past year, demonstrate the scale of the effects of transfers in human terms.

A detainee wishing to stay in contact with hospitalized family members

In February 2007 a citizen was transferred to another facility because of overpopulation. He contested the transfer, particularly because his daughter was in the hospital. He wanted to obtain news of her more frequently, but long-distance calls are expensive. Moreover, he informed the Québec Ombudsman that his spouse was suffering from depression and was receiving treatment in the hospital. The Québec Ombudsman contacted the facility's transfer manager to bring the facts reported by the citizen to his attention. On March 14, 2007, the citizen confirmed to the Québec Ombudsman that he had been brought back to the original facility.

Transfer compromises a detainee's social reintegration process

A detainee who had recently been transferred to another facility complained to the Québec Ombudsman about the impacts of this decision on his steps towards social integration. He was highly motivated in this respect, and reported that he had been taking part in various therapeutic and educational activities offered by the originating facility. Among other things, he had signed up for personal training courses. However, he had been able to attend only one session before being transferred, on account of overpopulation, to another facility that did not provide these services. The same was true of Alcoholics Anonymous meetings, which he strongly wished to attend two evenings per week. The citizen was also concerned at the impact of the situation when the time came to request conditional release.

On this last point, staff of the detention facility contacted by the Québec Ombudsman was reassuring: the absence of reintegration activities should not harm the citizen, since he was not responsible for the situation, and the elements in his file would demonstrate his will to involve himself to the Commission.

Comments like these provide food for thought about the real opportunities offered to detainees to prepare for their social integration. Can an individual's "will" substitute for actual involvement in a structured social reintegration process?

Medical treatment interrupted because of a transfer

The demand for health services in detention facilities is very high, while material and human resources are limited. Every year, the Québec Ombudsman receives many complaints reporting the interruption of medical treatment as a direct or indirect result of a detainee's transfer from one facility to another. Between April and December 2006, 43 complaints of this nature led the Québec Ombudsman to intervene with detention facilities. And yet, the Department's directives clearly state that the departments concerned in detention facilities must avoid any interruption of treatment.

The problem is complex. Differences in practices and the way health services are organized, constraints arising out of the confidentiality of medical files, and the many circumstances surrounding transfers of detainees can make adopting a unified operational approach, valid for all cases, difficult. However, interrupting medical treatment required by a detainee is not acceptable.

In some cases, coordination between facilities and the various services appears to be defective, particularly between officers responsible for organizing transfers and nursing departments. On occasion, nursing departments learn of a detainee's transfer from actors in the receiving facility. Employees whose job it is to provide health services to the detainee must then take the necessary steps to obtain the requisite information from the originating facility. The situation becomes more complex when, in moving from one facility to another, a detainee transits via a third facility. Detainees may have to wait, sometimes for several days, before the medication prescribed by a detention facility physician is administered in their new place of detention. The ensuing delay can result in significant adverse effects on their health.

Prescriptions not forwarded

A detainee was receiving medical treatment for various health problems. In particular, he had prescriptions for an analgesic and an antidepressant. After being transferred to a new facility, he received the analgesic only. Checks revealed that the originating facility did not transmit part of the prescriptions contained in his file. Although the citizen notified the nursing station at the new facility on his arrival, it took an intervention by the Québec Ombudsman for the information to be correctly exchanged between the two facilities.

For more than a week, the citizen was deprived of his antidepressant, the prescription for which was authorized by a detention facility physician, and consequently suffered physical and emotional impacts.

Methadone dose could not be adjusted

A detainee was following a detoxification program requiring methadone. He was in a regional facility where he was able to meet a physician who adjusted the dose each week. However, he was transferred to another facility because of overpopulation. Because involvement in the program had not been initiated in the new facility, personnel declined to monitor the case and, consequently, did not adjust his dose.

The facility to which the citizen was transferred did not have the services of a physician authorized to prescribe methadone, while the physician in the originating facility could not adjust the dose without meeting the patient.

The Québec Ombudsman intervened, and as a result the citizen was returned to his originating facility.

The right to see a physician

A detainee suffering from hepatitis C requested and was granted by the facility a consultation with a microbiologist in a hospital centre in the region. An appointment was set up, but the facility decided to transfer the citizen to another facility.

The new facility, expecting that the detainee would shortly be returned to the originating facility, refused to allow him to meet a physician, while the originating establishment cancelled the appointment with the microbiologist after the transfer.

The Québec Ombudsman intervened to arrange for the citizen to be seen by the physician of the new facility while awaiting his return to the originating facility. It also ensured that a new appointment was arranged with the microbiologist.

The Ministère des Transports

The Ministère des Transports ensures the mobility of people and goods throughout Québec through efficient, safe transportation systems. It manages financial support programs in a variety of areas, such as:

public transit and adapted transportation;
local road network maintenance;
bike path development;
the restoration and operation of secondary rail lines;
air and maritime service to isolated areas.

It also offers consulting services, and administers programs to support research and provide assistance in transportation development.

The Department is also responsible for issuing certain permits related to the road network.

THE TABLE QUÉBÉCOISE DE LA SÉCURITÉ ROUTIÈRE

In December 2005, the Ministère des Transports established the Table québécoise de la sécurité routière. Around 30 representatives make up this authority, whose mandate is to recommend to the minister measures to improve the accident record in Québec. While the accident record saw a marked improvement between 1978—the year the Régie de l'Assurance automobile du Québec was created—and 2001, it has since deteriorated.[1] The work of the Table, whose report is expected in 2007, will influence the new version of the road safety policy, also planned for release this year.

The Québec Ombudsman will study this report carefully.

Complaints Reviewed by the Québec Ombudsman

Ministère des Transport	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	12	13	11	2

* Excluding complaints whose processing was interrupted or which were referred

1/ Société de l'assurance automobile du Québec, *Rapport annuel de gestion 2005. Le rapport du Président-directeur général*, Québec, 2006, pages 8 and 10.

TYPE OF COMPLAINTS

Because of the limited number of complaints considered admissible and examined, no significant trends are apparent. The complaints have to do in particular with expropriation and the slowness of work done by territorial divisions on road infrastructures. The wait time for responses to claims is also a source of complaints.

Except for its power to approve municipal regulations regarding speed and the use of certain types of vehicles, as provided by the *Highway Safety Code*, the department plays essentially an advisory role with the municipalities. It must respect their managerial autonomy. The Québec Ombudsman can check whether the department is playing this role effectively, making sure it offers technical expertise as needed for conducting studies on accident rates.

CITIZENS DENIED THEIR RIGHT TO RECOURSE BEFORE THE COURTS

On April 12, 2006, the Ministère des Transports tabled Bill 9, *An Act to amend the Act respecting off-highway vehicles*. This bill was intended to better control the use of off-highway vehicles in Québec while ensuring the survival of the industry. It followed a consultation process that began in spring 2005 in the wake of a Superior Court decision handed down in 2004.[2] The government believed that this decision could harm the snowmobile and all-terrain-vehicle industry in Québec.

In order to better control the use of off-highway vehicles, the bill set out the following measures:

- regulations regarding the age and equipment of drivers, the power of the vehicles available for rent, sound and pollution emissions, vehicle equipment and access rights to trails;
- progressive fines for violations;
- increased powers for trail security officers.

2/ *Coalition pour la Protection de l'environnement du parc linéaire "Petit train du Nord" v. Laurentides (municipalité régionale de comté)* REJB 2004-81143 (C.S.).

To protect trail managers against the impact of other class actions like that which resulted in the Superior Court decision, the bill also provided for the extension of the moratorium on legal recourse until May 2011 and the re-evaluation of its usefulness in three years. This moratorium was imposed in December 2004 through the adoption of Bill 90.

In March 2006, in a parliamentary commission, the Québec Ombudsman had already opposed the principle of immunity from prosecution. It was expressing an opinion on a policy paper that proposed transforming the moratorium into permanent immunity. The bill tabled in April did not reflect the policy paper proposal for permanent immunity but extended the moratorium. In May 2006, the Ombudsperson intervened to ask that the moratorium be lifted immediately.

According to the Ombudsperson, the moratorium was no longer relevant, because the urgency created by the Superior Court decision in 2004 no longer existed. The impact of this decision created awareness within the government, municipalities and user clubs as to the actual prejudice caused to properties along trails by the disorderly use of off-highway vehicles. Following this decision, measures were taken, and the minister held regional consultations and established regional issue tables. Measures are forthcoming, including stricter rules regarding the use of trails. The Québec Ombudsman believes that this new coexistence is an opportunity to re-establish the right of recourse of citizens before the courts. When she intervened, she also reiterated the recommendation, made in March 2006, that a permanent, independent mechanism for complaints regarding nuisances caused by the use of off-highway vehicles be established.

The bill was adopted June 13, 2006, and the provisions regarding the moratorium were kept in their entirety. The law targets two networks of snowmobile and all-terrain vehicle trails, each some 10,000 kilometres long, which were identified by a departmental order on November 20, 2006. The Québec Ombudsman will be watching for the decision regarding lifting the moratorium, extending it or transforming it into permanent immunity.

Revenu Québec

Revenu Québec is a government agency whose primary role is to see to the collection of income tax and consumption taxes, so that each person finances a fair share of public services. Revenu Québec collects around 80% of the government's own-source revenues. It is also responsible for making recommendations to the government regarding amendments to fiscal laws, policies and programs.

The agency administers taxation-related social programs and any other tax-collection and redistribution program entrusted to it by the government. Revenu Québec administers the support-payment collection program to ensure that support to which children and custodial parents are entitled is received regularly.

Since April 1, 2006, Revenu Québec has ensured the provisional administration of unclaimed property and its liquidation. Also, as part of efforts to modernize the State, *An Act to amend the Act respecting the enterprise registrar and other legislative provisions* was assented to December 2006. In accordance with this law, the activities of the enterprise registrar have fallen under the responsibility of Revenu Québec since April 1, 2007.

AN EVOLVING CLIENTELE

Given the different areas in which Revenu Québec operates, its client groups are growing and are as diversified as ever. These include individuals who produce annual income tax returns and beneficiaries of tax-related social programs. They also include enterprises, companies, and agents who collect taxes at the source and deductions, and remit them to the government. Revenue Québec's information, prevention, collection, control, and audit activities involve many exchanges with members of the public and companies.

The Québec Ombudsman is aware that the diversity of programs and responsibilities, and the centralization of services within the Agency are a major challenge. Revenu Québec must be able to adapt its service approach not only to its different client groups, but also in accordance with the purpose of its programs.

MODIFICATIONS TO THE TAX CREDIT FOR HOME-SUPPORT SERVICES FOR SENIORS

Since January 2000, people 70 years and older can benefit from a tax credit on expenses incurred for home-support services. A number of improvements were made to this credit at the beginning of 2007. In particular, the eligible expense limit was raised from $12,000 to $15,000, the credit can be paid in advance, and its rate was raised from 23% to 25%.

Furthermore, Revenu Québec is now completely responsible for the administration of this tax credit. Previously, the Service de paie Desjardins—the Centre de traitement *Chèque emploi service*—calculated the employer contributions for the person requesting the tax credit. It withdrew the amount from its account on top of the salary to be paid to the employee. It also took care of deductions at source from the employee's salary. The tax credit was paid by the *Chèque emploi service* as services were rendered and paid, which has no longer been the case since January 1, 2007.

Seniors must now pay the company that provides services directly, unless they pay to continue to use the services of the Service de paie Desjardins or those of another payroll management service.

The Québec Ombudsman examined how these provisions would be implemented. Revenu Québec wrote those who benefit from the tax credit to advise them of the changes. The forms and the information required to ask for advance payments for 2007 were included with the letter. Furthermore, Revenu Québec agents received training on this.

Among other facilitative actions, the Québec Ombudsman notes that the Agency does not systematically require receipts for expenses eligible for the tax credit; however, it reserves the right to ask for them as part of an audit.

Since January 1, 2007, the Québec Ombudsman has not received any complaints regarding changes to the tax credit for home-support services for seniors. It will closely monitor this matter over the next year.

TAXATION

Complaints Reviewed by the Québec Ombudsman

Taxation		Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
	Taxation	332	344	292	52
2006-2007	Direction générale des biens non réclamés	7	7	2	5

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

The complaints received by the Québec Ombudsman varied widely and were mainly from individuals and individuals in business, and less frequently from companies, although they also have access to our services. The complaints related to income and consumption taxes. For example, taxpayers contested Revenu Québec's collection measures, as well as annual contributions. They requested the cancellation of penalties and interest, and complained when income or consumption tax refunds were delayed. The taxation-related programs administered by Revenu Québec, such as the shelter allowance program and the work premium program, were also called into question. Most complaints regarding the Direction générale des biens non réclamés related to the time required to process files.

The Québec Ombudsman receives many calls regarding the scope of Revenu Québec's powers. For example, as part of its plan to fight tax evasion, the Agency may use alternative contribution methods such as contributions by net worth to recover undeclared amounts. This practice has led citizens who are audited by Revenu Québec to contact the Québec Ombudsman to inquire as to the legality of this type of contribution.

Some complaints received had to do with the management of documents produced by taxpayers.

THE PROCESSING OF DOCUMENTS BY REVENU QUÉBEC

In its *Service Statement*, Revenu Québec states that its objective is to send income tax refunds or notices of assessment within 28 days when a return is prepared on paper. The Agency attempts to respond to letters from the public within 35 days of their receipt by mail at its offices.

Every year, the Québec Ombudsman receives complaints from the public regarding the processing of documents sent to Revenu Québec. Documents that are not correctly processed, or that are not processed at all, have a direct impact on the services offered, particularly given that Revenu Québec uses a self-assessment system that places the burden of proof on citizens. Taxpayers must attest to their situation: civil status, identification of the spouse and the existence of a child. Citizens must also confirm income and expenses. Most of the time, this evidence is presented in writing.

While Revenu Québec receives many documents, errors and delays in processing them should never have a negative effect on a citizen. The Québec Ombudsman's review of complaints has revealed a variety of problems, and here are a few concrete examples.

THE LOSS OF DOCUMENTS

Complaints show that sometimes Revenu Québec is unable to trace a document sent by a citizen, who then has to send the document again. Often this means that the citizen has to obtain and pay for a new copy of the document.

FAILURE TO FOLLOW UP ON A CITIZEN'S WRITTEN REQUEST

Revenu Québec undertakes to follow up on correspondence from citizens within 35 days after it is received. The Agency does not send acknowledgements of receipt to citizens.

In some cases, Revenu Québec entered the documents sent by a citizen in a file but did not assign an agent to read them. The Québec Ombudsman has noted that even documents sent at a Revenu Québec agent's request can go unanswered.

Consequently, the Québec Ombudsman has concluded that citizens should follow up with the Agency by phone 35 days after having sent a letter or a document. Revenu Québec, for its part, should improve this area of its activities.

Practices complicate one woman's life

In June 2006, a woman informed Revenu Québec in writing with supporting documents of the death of her mother in March 2006. She asked the Agency to send any correspondence to her personal address.

In the months that followed, the woman noticed that Revenu Québec was still paying her mother's shelter allowance and that it had sent a cheque for an income tax refund in August 2006. In September, the woman returned the cheque and contacted a Revenu Québec agent. The agent informed her that the Agency had not been advised of her mother's death and that there was no trace of the documents she had sent. The woman returned the documents and decided to file a complaint with the Québec Ombudsman, believing that Revenu Québec's computer system was at fault.

The Québec Ombudsman asked Revenu Québec to speed up the processing of this file, as the women had been waiting since June 2006 for the certificate of distribution required to settle the estate. It asked the Agency to trace the documents sent by the woman.

Revenu Québec finally located the woman's documents in October and made the necessary changes to the file.

The review of the complaint revealed two Revenu Québec practices that were at the source of the confusion. At the time the complaint was filed, it was impossible to trace the documents resent by the woman in September because Revenu Québec's processing time for mail is around 35 days. The documents sent had not yet been entered in the Agency's computer system. Furthermore, the first time the woman sent the documents, in June, she put them in a single envelope: the application for the shelter allowance, the correspondence, the refund cheque, the request for the notice of distribution and the information regarding the statement of death. The documents were all sent to the area that processes applications for shelter allowances, because that was the first document in the envelope. The documents should have been forwarded to three different areas: shelter allowance, personal income tax and tax collection. The agent who received the documents regarding the shelter allowance did not check the documents and filed them all in the same file.

REQUESTS FOR DOCUMENTS ALREADY IN THE FILE

Members of the public have expressed their dissatisfaction with having to send Revenu Québec the same documents more than once. In the Québec Ombudsman's review of complaints, it noted that in fact certain Revenu Québec agents did ask citizens to send documents more than once rather than consulting their file.

Twice rather than once

A citizen complained to the Québec Ombudsman that Revenu Québec had asked him to produce receipts a second time for tuition fees for the tax years 1998 to 2001.

In this case, in spite of the fact that the man explained to Revenu Québec that he had sent the supporting documents in question with his income tax return, the agent insisted that he send them again.

Revenu Québec's request created needless effort for the man in question. He had to request a copy of the supporting documents from his school. We therefore reached an agreement with the Agency that the files would be consulted for the information required for the years for which receipts were produced.

Recommendations

Given that Revenu Québec attempts to follow up on letters from citizens, which often contain documents or receipts, within 35 days;

Given that documents or receipts are sometimes not entered in the file, entered but not sent to an agent, or not all sent to the area responsible, it is recommended:

- That Revenu Québec consider the possibility of reducing the 35-day time frame to follow up on letters from citizens;
- That Revenu Québec review its processes to:
  - Ensure that the documents and receipts received from citizens are properly examined and sent to each of the areas that must process them;
  - Avoid asking citizens for new copies of documents or receipts that have already been sent.

Comments of Revenu Québec

Revenu Québec has indicated that it will develop an action plan to follow up on the recommendations of the Québec Ombudsman, more specifically to review its rocess and.the 35-day time frame to follow up on correspondence.

PROCESSING TIME HAS AN IMPACT ON THE TAX BENEFIT

The Québec Ombudsman noted during its interventions that the time required to process mail can adversely affect citizens. Even if a person has sent documents in the prescribed form and time frame, Revenu Québec does not always process the information fast enough for the first payment of the tax benefit.

Comments of Revenu Québec

Revenu Québec has informed the Québec Ombudsman that its action plan will address this type of situation.

Unfair consequences

In May 2006, a woman contacted Revenu Québec to reregister for the *Work premium* program after a disruption of employment. The agent asked for written justification. The woman sent an explanatory letter at the end of May. She had thus respected the program's rules, making her eligible for a first payment on July 15. At the beginning of July, the woman asked Revenu Québec about the progress of her request. The agent advised her that the explanatory letter was not in the file. He said that Revenu Québec receives a lot of mail and that the staff had undoubtedly not had the time to process it completely. Then another agent asked her to fax the letter to activate her file. He pointed out that since Revenu Québec uses the date the file is activated as the starting date, it was too late to receive a payment in July, and that she would have to wait until the second payment set for October 15.

The Québec Ombudsman believes that Revenu Québec's delay in processing its mail was prejudicial to the woman, because it deprived her of her right to receive the first payment of the *Work premium*. The Québec Ombudsman asked the Agency to issue the July cheque, as would have been done had the woman's letter been processed within a reasonable time. Revenu Québec recognized its responsibility and agreed to pay the July premium.

Who failed to respect the deadline?

On June 15, 2006, a woman mailed her request for advance payment of the tax credit for child-care expenses to Revenu Québec using the preaddressed envelope provided for this purpose. The deadline was July 1. Revenu Québec registered her request on July 17 and informed her that she would not receive the payment because the deadline had passed.

The Québec Ombudsman asked Revenu Québec to verify the woman's form to determine the date of the request. The form confirmed that she had made her request before the deadline and that she therefore had a right to the July payment. The Agency agreed to pay the amount based on the request date and not the registration date.

THE COLLECTION OF SUPPORT PAYMENTS

Support payments are set by court decision. Revenu Québec has different ways of collecting the payments: through a deduction at source, by means of a payment order, or using any other enforcement measure provided for in *An Act to Facilitate the Payment of Support* or in the Code of Civil Procedure of Québec.

The number of complaints received by the Québec Ombudsman has decreased over the last three years. In 2006-2007, complaints regarding the collection of support payments dropped by over 50%. Revenu Québec has improved the management of its collection program, and we applaud this.

Complaints Reviewed by the Québec Ombudsman

Collection of support payments	Complaints*	Complaint Grounds	Unsubstatiated Grounds	Substantiated Grounds
2006-2007 *	107	111	74	37

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINT

The grounds for complaint regarding the *Support Payment Collection Program* most commonly relate to:

The interruption of support payments to a creditor or irregular payments;

Delays in acting or inaction when the debtor does not pay support;

Collection that is disproportionate with the debtor's ability to pay;

The time required to reduce or cancel an attachment;

The interpretation and the application of decisions of the courts;

The obligation of creditors and debtors to obtain a new judgment every time they want to change or cancel their support payments.

STATEMENTS REMAIN DIFFICULT TO UNDERSTAND

Several times in recent years, the Québec Ombudsman has criticized the complexity of Revenu Québec statements sent to creditors and debtors of support payments. In fall 2006, the Agency decided to review them, a decision welcomed by the Québec Ombudsman. Revenu Québec mandated a firm of experts to analyze the statements and propose improvements. As part of its mandate, the public accountant met the Québec Ombudsman in January 2007 to express a point of view on the matter.

Here is an overview of the Québec Ombudsman's suggestions for simplifying statements:

Improve the transaction detail;

Attach calculation detail for more complex calculations;

Indicate the advances issued by Revenu Québec to creditors, because a judgment could result in one of the parties having to reimburse amounts advanced;

Make statements securely available to the parties via the Internet.

The Québec Ombudsman is awaiting results.

LACK OF TIME FOR MORE COMPLEX FILES?

This year, the Québec Ombudsman received over 20 complaints from citizens about situations they had tried unsuccessfully to resolve with Revenu Québec. These represent the majority of substantiated complaints that required the Québec Ombudsman's intervention to help citizens having problems with the processing of their support payment files. The Québec Ombudsman wonders why this is the case. Is it due to a sudden increase in complex situations? Were agents being less attentive, or was their workload excessive?

Revenu Québec management reports show a constant reduction in staff at the Direction principale des pensions alimentaires, while the number of judgments to apply is increasing. In fact, the number of employees dropped from 526 to 441 full-time people, a decrease of slightly more than 15% between 2002-2003 and 2005-2006. However, the number of debtors and creditors grew from 232,233 to 260,585, an increase of over 10% for the same period.

According to Revenu Québec, the increased workload is counterbalanced by improvements made since 2002 to the management information system of the *Support-payment collection program*. The Québec Ombudsman has also noted the effects of these improvements. For example, complaints regarding advances to creditors have clearly declined since 2005.

The Québec Ombudsman noted that citizens try to contact Revenu Québec to understand or sort out their situation and are unable to. They have to turn to the Québec Ombudsman to solve their problem. Very often, an additional verification by Revenu Québec could have solved the problem.

If, as Revenu Québec maintains, workload is not an issue, why do the front-line agents not perform an in-depth analysis of problems raised by citizens? Has the increase in the number of files, in spite of improvements to the file management system, left less time for agents to handle more complex situations?

Revenu Québec has confirmed that agents have less time to discuss support payment with creditors and debtors. They have taken training in communicating with clients to ensure that they can refer them to the appropriate resources (legal aid, the Ministère de la Famille, des Aînés et de la Condition féminine, a CLSC, etc.). And Revenu Québec has pointed out that its support payment agents cannot provide legal advice or psychological support.

Given the context and the explanations from Revenu Québec, the Québec Ombudsman believes that more complex aspects of files should be handled by public servants who are less solicited by clients and whose workload is adjusted accordingly.

Here are a few examples of situations in which the Québec Ombudsman's intervention was required to help support payment creditors and debtors.

A simple verification would have avoided one woman's concerns

A woman's support payments were interrupted because Revenu Québec had not been receiving the deductions from her former spouse's salary for over two months. In the meantime, the Agency had paid advances up to the maximum authorized by law.

The woman was puzzled, because her former spouse maintained that the deductions at source had been made for each pay period. The agent stuck to her decision in spite of this information. The woman was worried and contacted the Québec Ombudsman, confiding that she would not have enough money to pay her next month's rent.

Once the verifications were made, it turned out that Revenu Québec had indeed received the source deductions made by the employer. However, the amounts were allocated in error to Revenu Québec, because the man owed the Agency money. Given that the woman had been in a precarious situation for close to five weeks, the Québec Ombudsman asked the agent to immediately pay the amounts due via direct deposit. The agent hesitated, because a payment was not planned for another week. The Québec Ombudsman insisted and prevailed. To the woman's great relief, Revenu Québec made the deposit immediately.

Recommendation

The Québec Ombudsman recommends:

That with regards to the support payment collection system, the methods of reimbursement of amounts due to Revenu Québec take into account the needs of support payment creditors and adapt to individual situations.

Comments of Revenu Québec

Revenu Québec indicated that it already applies the principles of this recommendation and will continue in its efforts as part of the action plan being developed.

An error with serious consequences

Revenu Québec advised a woman that she would stop receiving her support payments in two weeks. The Agency had been paying her in advance, but the authorized maximum had been reached. In a phone interview, the woman said that once her support payments stopped, she would have no income. The agent suggested that she apply for welfare. To the woman's astonishment, the agent added that her former spouse's employer claimed to have sent all the amounts deducted to Revenu Québec over recent months, for a total of $2,236.

Once informed of the situation, the Québec Ombudsman asked Revenu Québec to immediately check what had happened. The agent indicated that the investigation could take a long time. The Québec Ombudsman insisted that the process be sped up so as not to deprive the woman of her support payments. The next day, Revenu Québec's investigation revealed that the cheques had indeed been sent by the employer. However, the employer had mistakenly used a remittance slip for one of its other employees.

The Québec Ombudsman believes that Revenu Québec should have started the investigation earlier, because the employer had already informed the agent that it had sent in all the amounts collected. This would have prevented the woman's worry and anxiety.

Revenu Québec's inaction causes a woman to go into debt

A woman informed her agent that she had not received her regular support payment. A few weeks later, the situation had not been corrected. She had to ask her former spouse to advance her money. All deductions were made from the debtor's salary for each pay period, as required by Revenu Québec.

The Québec Ombudsman's review of the file revealed that the debtor's employer had not sent Revenu Québec the amount due for the last nine weeks, for a total of $1,200. Revenu Québec had not realized this as it was issuing the woman advances. According to the Québec Ombudsman, Revenu Québec should have monitored the file more closely and been more firm with the employer, particularly given that it knew the employer was not submitting regular payments.

Revenu Québec "forgets" to pay $700

In verifying statements provided by Revenu Québec, the Québec Ombudsman noted that a woman receiving support payments was owed $1,300. Yet according to the debtor's statement, he only had $600 left to pay. What accounted for the $700 difference?

The Québec Ombudsman asked Revenu Québec to trace the difference. The Agency noticed that the debtor had already paid $700, but that the amount had been "forgotten" in the account for the past two months. The agent neglected to make the computer transactions necessary for the support payment.

An unjustified delay to increase support payments

An agreement entered into in 1996 set a woman's support payments at $80 per month, for as long as her former spouse was having his salary attached to repay a debt to employment insurance. Once the debt was repaid, the payments would increase to $150 per month. This never happened.

The woman asked why her support had stayed the same for 10 years. She asked Revenu Québec several times for information on the matter, and each time she received a different answer. Finally, a lawyer referred her to the Québec Ombudsman.

Revenu Québec maintained that it was up to the woman to prove that her former spouse had paid his debt to employment insurance. But at the same time, the Agency admitted that the agent could approach the former spouse directly. At the Québec Ombudsman's request, the agent did so. The former spouse confirmed that his debt to employment insurance had been completely repaid some time ago. As it was no longer possible to prove exactly when the debt was paid, the creditor and debtor agreed to January 1, 1998 as the starting date for the adjustment to support payments.

The arrears amounted to $8,000. Of this amount, $4,300 would go to the Ministère de l'Emploi et de la Solidarité sociale, which had paid benefits to the woman for a few years. The creditor was therefore entitled to $3,700. Furthermore, her existing support payment was set at around $200 per month, including annual adjustments, or close to twice what she had been receiving for 10 years.

The woman's ordeal wasn't over, however, because a few weeks later she again had to ask for the Québec Ombudsman's help to recover the $3,700 in arrears from her former spouse. The Revenu Québec agent thought that she did not care about collecting the arrears, because she was receiving higher support payments! The agent also wanted to be sure that her former spouse would not quit his job to avoid any further payments.

At the Québec Ombudsman's request, the agent contacted the creditor and the debtor, who finally reached an agreement on the payment of arrears. The amounts collected were split between the woman and the Ministère de l'Emploi et de la Solidarité sociale, to which the former spouse also owed money.

The Agency deducts double the support payment

A man paid Revenu Québec for support for his former spouse by payment order. He fulfilled all his obligations, and the cheques arrived at the Agency on time. In spite of this, his employer informed him that a portion of his salary would be attached beginning the following week at Revenu Québec's request. The man was concerned and contacted the Québec Ombudsman.

After the Québec Ombudsman intervened, Revenu Québec noticed that there had been an error and immediately withdrew the notice of deduction at source, much to the man's relief.

Revenu Québec refuses to reduce an attachment of 50% of a salary

The Ministère de l'Emploi et de la Solidarité sociale attached 30% of a man's salary because he had not repaid $5,000 for overpayment of social assistance. This was not his only debt, because he also had to make retroactive support payments of $325 per month. Revenu Québec took legal measures and also attached the man's salary. The attachment was now 50%, the maximum allowed by law in these circumstances. Once his rent was paid, the man had less than $100 per month to live on.

The man asked Revenu Québec to reduce the attachment and to spread his repayment out. His request was refused. He was discouraged and seriously considered quitting his job, where he earned $11 an hour. The risk that he would do so was real, given that social assistance cannot be attached. He decided to contact the Québec Ombudsman first.

Our review of the man's complaint showed that on top of attaching 30% of his salary, the Ministère de l'Emploi et de la Solidarité sociale paid his former spouse welfare benefits in addition to his support payments, which were not enough for her basic needs and those of her children. While waiting for the former spouse to receive the support due to her, the amounts that Revenu Québec continued to attach were turned over to the Ministère de l'Emploi et de la Solidarité sociale, by virtue of a subrogation.

Revenu Québec was willing to accept to withdraw its attachment of 50% on the salary on the sole condition that it be the preferred creditor, before the Ministère de l'Emploi et de la Solidarité sociale. The Québec Ombudsman's arguments to persuade Revenu Québec to reduce the attachment were in vain.

Given Revenu Québec's lack of cooperation and the urgency of the situation, the Québec Ombudsman asked the Ministère de l'Emploi et de la Solidarité sociale to renounce its status as the preferred creditor. Its proposal was easily accepted, given that in practice this department holds both debts. The attachment on the salary was therefore reduced to 30%, allowing the man to keep his job, and to continue to make support payments and repay his debt to the State.

THE DIRECTION GÉNÉRALE DES BIENS NON RÉCLAMÉS

As part of the modernization of the State, Revenu Québec has new responsibilities. As of April 1, 2006, it is the only organization designated to collect and administer for the time being unclaimed property that falls under public responsibility. Previously, the Public Curator managed this property. The Direction générale des biens non réclamés retains the same mission and the same human resources.

The main types of unclaimed property are:

estates;

property found on the corpse of an unidentified person;

property abandoned by dissolved companies;

property located in Québec, the owners of which are unknown or cannot be found;

vehiculs abandoned on public thoroughfares.

FINE-TUNING AT THE DIRECTION GÉNÉRALE DES BIENS NON RÉCLAMÉS

In 2001, the Québec Ombudsman intervened with the Public Curator, which was then responsible for administering unclaimed property, to change a practice it believed to be illegal. The Public Curator required that heirs be represented by a notary to settle an estate, even through the Civil Code of Québec provides that the liquidator has the power required to carry out this transaction. This practice resulted in additional fees for heirs. The Public Curator justified its position by the fact that having an estate settled by a professional who understands the legal obligations regarding liquidating an estate makes the work of agents easier and better protects the rights of citizens. The Public Curator had agreed to lift this requirement and to change a form letter it used to inform citizens accordingly.

On August 2, 2006, a man filed a complaint with the Québec Ombudsman because an agent from the Direction générale des biens non réclamés asked him to hire a notary.

This file gave the Québec Ombudsman an opportunity to review this matter with representatives from the Direction générale des biens non réclamés and to have them honour the 2001 commitment. The man obtained the information he wanted, without an intermediary.

Comments of Revenu Québec

Revenu Québec informed the Québec Ombudsman that the Direction générale des biens non réclamés has reiterated to employees of the area in question that they could not ask heirs to hire a notary.

THE REGISTRAIRE DES ENTREPRISES

NO FEES FOR VICTIMS OF IDENTITY THEFT

A man who was victim of identity theft was advised by the Registraire des entreprises that he had to fill out an annual declaration form. Since he had never registered with this agency, he contacted customer service and asked that his registration be cancelled. The agent informed him that he would be charged $80 to cancel the registration. The Québec Ombudsman went to the Department with the man's complaint in hand and pointed out that citizens were being unfairly penalized when they showed that fraud had indeed been committed. As a result, the Registraire des entreprises changed its policy to allow people who are the victim of identity theft to have their name removed from the register at no charge.

BETTER COORDINATION TO AVOID NEEDLESS FEES

The Registraire des entreprises charged a man for producing his annual declaration late. The man maintained that he sent the information required when he completed and sent Revenu Québec *Appendix O* with his annual income tax return. He was convinced that he had fulfilled his obligations and that the completed document would be sent to the appropriate person. Verifications made by the Québec Ombudsman revealed problems with the matching process set up by Revenu Québec and the Registraire des entreprises. Appendix O, which is attached to the taxpayer's income tax return, serves as the annual declaration for the Registraire des entreprises. The process therefore requires that the different departments work together. While Revenu Québec confirmed receiving the document, it cannot be found. The Registraire des entreprises agreed to reimburse the fees the man had paid.

Comments of Revenu Québec

Revenu Québec and the Registraire des entreprises reviewed their process, and improvements will be identified in the action plan, which will be implemented to follow up on the Québec Ombudsman's recommendations.

Agencies

The Commission de la santé et de la sécurité du travail

The Commission de la santé et de la sécurité du travail promotes health and safety in the workplace and intervenes in matters of prevention. It inspects workplaces to eliminate dangers at the source. It is responsible for compensating workers who are victims of an employment injury and sees to their rehabilitation. It is responsible for setting and collecting employer contributions.

The Commission is also responsible for administering the compensation plan for victims of crime.

The Commission sees to the application of the five laws regarding health and safety at work (prevention and inspection) and compensation for employment injuries.

AN AGENCY WITH SPECIAL STATUS

The Commission de la santé et de la sécurité du travail has special status by virtue of the fact that it is a joint organization that allows workers and employers to participate in defining and managing the workplace health and safety policy. Its board of directors is made up of 15 members: the chair, appointed by the government, seven representatives of workers and seven representatives of employers who are also appointed by the government based on recommendation from employers associations and unions. The Commission is a decentralized agency that has 21 regional directorates.

COMPENSATION AND REHABILITATION OF WORKERS

Part of the Commission's mission involves compensating workers who have suffered an employment injury. It is also responsible for their rehabilitation when they suffer permanent harm to their physical or psychological integrity because of an employment injury. The Commission compensates pregnant and breast-feeding workers and those who are subject to a preventative withdrawal of work.

Complaints Reviewed by the Québec Ombudsman

Compensation and rehabilitation of workers	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	240	262	180	82

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

This year, the Québec Ombudsman intervened following complaints about problems in the medical evaluation and rehabilitation process. Complaints were also filed about the suspension or calculation of the income replacement indemnity and denials of eligibility or reimbursement for certain expenses. The time required for the Commission to render decisions, to rule on a claim, to provide compensation for after-effects or to pay amounts due were also a source of dissatisfaction. A number of citizens complained that the Commission took a long time to return calls or to send them documents required for the exercise of their rights, for example in the event of an administrative review or when a case is before the Commission des lésions professionnelles.

EQUITABLE COMPENSATION FOR WORKERS WHO HAVE MORE THAN ONE JOB

Following a complaint filed by a citizen, the Québec Ombudsman intervened with the Commission to ask it to take into account the salary a worker was drawing from two jobs in establishing his income replacement indemnity, in accordance with a provision of the law. To determine the gross revenue of a worker in this situation at the moment of the injury, the Commission applied a different article of *An Act respecting industrial accidents and occupational diseases* that does not reflect the true loss he has suffered. Pointing to trend in jurisprudence that has a clear majority from the Commission des lésions professionnelles, the Québec Ombudsman intervened with the Commission de la santé et de la sécurité du travail to ask that it correct this problem.

When the calculation of the higher income of full-time jobs, as is set out in the law, does not have the effect of compensating the worker for real loss of income, the Québec Ombudsman recommends that the Commission use another provision to reach a decision that is more in keeping with the purpose of the law, which is the full compensation of the worker.

The intervention of the Ombudsperson with the Commission and the ministre du Travail helped ensure that this file received the required attention. Finally, in December 2006, the chair of the Commission followed up on the recommendation of the Québec Ombudsman.

THERE'S THE RUB

In any given year, reviewing complaints about the Commission brings to light recurrent problems. Last year, the Québec Ombudsman reminded the Commission of its responsibility to provide adequate information to citizens on the grounds for decisions about their cases. Regular problems also include situations in which files are analyzed based on incomplete or inadequate documentation. Furthermore, the Commission has a tendency not to adjust its policies and processes for trends in jurisprudence from the Commission des lésions professionnelles when this jurisprudence is not favorable to the CSST, even when that jurisprudence is clearly dominant.

Important information

The Commission de la santé et de la sécurité du travail refused the claim of a worker for tendonitis caused by her work. The citizen worked on a production line canning maple syrup. She explained to the Québec Ombudsman that the tasks she performed were previously performed by two people. After the doctor advised her to stop working, her employer assigned two men to perform her work in alternation; when one finishes a table, the other takes over for the next table.

The worker's tendonitis started during the Christmas season, a time of year when work hours are longer and production is higher. The worker explained to the Québec Ombudsman that her tasks were made even more difficult because of her small size. She had to perform a rotation motion continuously with her arms extended above the shoulders to take down cans from shelves several rows high located beside her. Upon reading the Commission's file, the Québec Ombudsman reviewed the progressive notes of the agent who had handled the file. There was no mention of her work station. The any modification to Québec Ombudsman asked the Commission to reconsider its decision in light of the facts reported by the worker and suggested inspecting her work station. As a result, the Commission decided to pay an income replacement indemnity to the worker.

The Commission changes its point of view

A worker who had an arm seriously twisted by a heavy load was found unfit for employment by the Commission. He claimed a reimbursement for a therapeutic mattress. His request was denied. The Québec Ombudsman reviewed the file and noted that the medical reports point to a problem of chronic fatigue due to the inability to get a restful sleep. The citizen could only sleep for short periods because of constant pain. His condition remained unchanged after many treatments, including physiotherapy.

The Québec Ombudsman pointed out to the Commission that the purchase of such a mattress is something to be considered, because it would allow the worker to recuperate, if only through one extra hour or sleep per night.

Since rehabilitation measures are not subject to the same conditions and monetary limits as those of the Règlement sur l'assistance médicale, the Québec Ombudsman encouraged the Commission to consider the purchase as a means of rehabilitation. The Commission granted the request and reimbursed the worker for the therapeutic mattress.

Delay in acting: the worker is the one who pays

- During a Commission des lésions professionnelles hearing, the Commission de la santé et de la sécurité du travail (CSST) asked for an extension to produce documents from the file of an injured worker. Two weeks later, the Commission des lésions professionnelles contacted the worker to tell him that it had still not received the documents. The citizen asked the Commission what was going on. He learned that the person responsible for the file was absent for an indeterminate period. The agent told him that he would have to wait for his return. Following the intervention of the Québec Ombudsman, the regional directorate of the Commission agreed to prevent unreasonable delays for the worker by assigning another person to the file.
- A worker sent his agent his application for administrative review. When he checked back one month later with the Direction de la révision administrative, he found out that his agent had never sent in the document. He contacted the Québec Ombudsman who intervened with the agent to correct this error and to ensure that the file was quickly assigned to a reviewer, given the serious consequences for the worker.

Openness from the Direction de la révision administrative

An Act respecting industrial accidents and occupational diseases provides two different measures to deliver assistance to workers who have difficulty performing household tasks because of an employment injury: reimbursement of routine housekeeping expenses and personal home assistance.

A worker received $1,265 in 2004 and $994 in 2005 as reimbursement for routine housekeeping expenses. In July 2005, following her objection, theCommission des lésions professionnelles granted her the right to an allowance for personal home assistance. To execute this decision, the Commission (the CSST) mandated an occupational therapist to assess the worker's needs using a grid provided for the purpose. The result of the assessment made it possible to award the worker $28.09 every two weeks, or around $730 a year, which was not enough to cover actual housekeeping expenses comparable to those assessed in 2004 and 2005.

At the same time it granted her the right to personal home assistance, the Commission suspended her right to reimbursement for housekeeping expenses on the grounds that both measures were intended for housekeeping.

The Québec Ombudsman agrees that the Commission should not have to pay twice for a service covered by two different programs. However, it believes that the resulting situation is illogical because the worker has sustained a loss even though the Commission des lésions professionnelles is granting her an additional right.

The regional directorate refused to correct the situation. As a result, the Québec Ombudsman went to the Direction de la révision administrative for a solution. The administrative review proposed modifying the calculation of points that entitled the worker to personal home assistance. With the new calculation, the worker receives $2,208 per year, or enough to pay for housekeeping expenses. Her right to additional personal home assistance granted by the Commission des lésions professionnelles is thereby recognized. The Québec Ombudsman was satisfied with the openness the Direction de la révision administrative showed in its flexible handling of a unique situation.

A directive that limits rights

A regional directorate of the Commission de la santé et de la sécurité du travail has a directive limiting the time allowed to claim a reimbursement for medication to six months. However, neither *An Act respecting industrial accidents and occupational diseases* nor the Règlement sur l'assistance médicale provides a time frame for claims for reimbursement for medication. The Québec Ombudsman asked for this directive to be cancelled because it overstepped the law. The CSST agreed.

The CSST admits its error but does not accept responsibility for it

A worker was victim of an employment injury on November 24, 1986. His employer was personally liable to pay the benefit, in other words, he had to pay compensation directly to the worker. Because of this incident and the eight relapses, recurrences or aggravations that would follow, the worker would be permanently impaired and suffer functional limitations that would prevent him from resuming his job. In January 1996, the Commission des lésions professionnelles and the first employer ratified an agreement that determined that a job as a security guard at a third-party employer was suitable.

On November 14, 2001, the worker suffered another relapse. On February 15, 2002, the Commission (the CSST) decided that he was nevertheless able to continue to work as a security guard. On May 3, the Commission reconsidered its decision based on new information provided by the third-party employer and the attending physician. It neglected, however, to inform the first employer of the decision as provided in article 365 of *An Act respecting industrial accidents and occupational diseases*. On July 3, 2002, the Commission (the CSST) declared the worker unemployable and paid him an income replacement indemnity in accordance with article 47 of the Act. The first employer contested these two decisions and took the matter before the Commission des lésions professionnelles.

On October 26, 2004, noting that there were new critical factors that merited that the Commission (the CSST) reconsider, the Commission des lésions professionnelles ruled the CSST's decision of July 3, 2002 defective on the grounds that the first employer had not been informed of it. Because of this omission on the part of the Commission (the CSST), the February 15, 2002 decision regarding the worker's abilities was therefore restored and his income replacement indemnity was reduced. The citizen complained to the Québec Ombudsman that this error was seriously prejudicial to him.

Following its analysis of the file, the Québec Ombudsman shared its concerns with the interim chair of the Commission (the CSST). It believed that it was an exceptional situation that was not handled reasonably, equitably and in accordance with the spirit of *An Act respecting industrial accidents and occupational diseases*. The Québec Ombudsman concluded that the worker was effectively denied his full income replacement indemnity because of an error committed and even admitted to by the Commission (the CSST).

The CSST acknowledges not having informed the first employer of its intention to review its decision about the worker's ability. It also admits that the worker should be considered unemployable, as it had decided on July 3, 2002. However, the Commission (the CSST) believes it is still bound by the decision of the Commission des lésions professionnelles and as a result has referred the citizen to the courts.

The Québec Ombudsman finds it unfair that the worker bears the burden of should bear correcting an error made by a public agency. In such circumstances, it is up to the Commission (the CSST) to take responsibility for its errors; the victim should not have to invest time and money to obtain justice. Furthermore, the Québec Ombudsman believes that the decision of the Commission des lésions professionnelles, the effect of which is to present the rights of the employer following an error made by the Commission (the CSST), cannot be interpreted as having the intent of infringing the rights of the worker.

On March 31, 2007, the Commission (the CSST) refused to take responsibility for its error and to correct the citizen's situation out of concern for equity. The Québec Ombudsman is continuing its intervention to have the situation addressed as quickly as possible.

RELUCTANCE TO ACCEPT RESPONSIBILITY FOR COMPENSATION

The Québec Ombudsman is asked to intervene in situations in which victims of injury are caught between the Commission de la santé et de la sécurité du travail and the Société de l'assurance automobile du Québec, with each claiming that the other agency is responsible for compensation. The section of this report on the Société de l'assurance automobile du Québec details this situation and contains the following recommendation for both agencies.

Recommandation

Given that under article 83.66 of the *Automobile Insurance Act* and article 449 of *An Act respecting industrial accidents and occupational diseases*, the Société de l'assurance automobile du Québec (SAAQ) and the Commission de la santé et de la sécurité du travail (CSST) have reached an agreement regarding processing files of injured parties who, while receiving an income replacement indemnity from the Société or the Commission experience a new incident that is not within the scope of responsibility of the agency providing compensation;

Given that the agreement between the Société and the Commission does not cover all cases of citizens who have already received an income replacement indemnity from the SAAQ or the CSST and who experience a new incident within the scope of responsibility of the other system;

Given that harmonization problems arise between the Société and Commission in the review of files and on decisions rendered;

Given that there can be unfair consequences of these situations for victims of injury;

The Québec Ombudsman recommends:

That the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail identify and implement appropriate short-term solutions to harmonize their activities with regards to a single citizen.

COMPENSATION FOR VICTIMS OF CRIME

Within the Commission de la santé et de la sécurité du travail, the Direction de l'indemnisation des victimes d'actes criminels has the mandate of assessing the eligibility of victims of crime for benefits and determining their right to benefits provided for in the law. It offers appropriate medical assistance services and psychotherapeutic rehabilitation services to victims in an effort to lessen the effects of a crime.

The Commission is responsible for the application of the *Crime Victims Compensation Act* and *An Act to promote good citizenship*, which use the same principles of compensation as the *Workers' Compensation Act*. The Minister of Justice is responsible for the execution of these two laws.

MODERNIZING SERVICES TO BETTER RESPOND TO DEMAND

According to the 2005 annual report of the Direction de l'indemnisation des victimes d'actes criminels, requests have increased in recent years. From 1972, the year it was created, to December 31, 2005, the Direction received 78,000 requests for benefits and paid $750 million in compensation. Requests for benefits grew from 148 in 1972 to 3,463 in 2005.[1]

At the beginning of 2006, the Direction began modernizing its services. One of the expected effects of this effort is faster processing of files. The Direction is also reviewing its processes to better target its interventions according to the specific needs of its client groups. It will attempt to process simpler cases faster to be able to devote more time to cases in which a person's condition could become chronic.

At a meeting with the director and representatives of the agency in January 2007, the Québec Ombudsman was briefed on the modernization project and will follow its progress over the next year.

The Québec Ombudsman also submitted its comments to the Minister of Justice regarding Bill 25, *An Act to amend the Crime Victims Compensation Act and other legislative provisions*. This bill gave the Québec Ombudsman the opportunity to reiterate some of its 2002 recommendations from a document entitled *Rapport spécial sur le régime d'indemnisation des victimes d'actes criminels*. The Québec Ombudsman also presented its comments to the taskforce created by the Minister to review the compensation plan for victims of crime. The Québec Ombudsman again reiterated its positions from 2002 and made new recommendations for the modernization of the compensation plan. These are presented in the section of this report on the Ministère de la Justice.

1/ Rapport annuel d'activité, Direction de l'indemnisation des victimes d'actes criminels, 2005, page 9

Complaints Reviewed by the Québec Ombudsman

Compensation for victims of crime	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	40	50	40	10

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Once again this year, a wide variety of complaints were made to the Québec Ombudsman. Long waiting times for the Direction to make a first instance or review decision, to pay compensation, to reimburse expenses, to process a file after an expert opinion and to perform an investigation were raised many times. The situations brought to the attention of the Québec Ombudsman also had to do with eligibility for the plan and the base salary used to determine compensation. Finally, citizens sometimes complained about lost mail and interpersonal difficulties with agents and expressed dissatisfaction with how their cases were handled in general.

The Québec Ombudsman believes that the modernization plan presented by the Direction includes measures that could correct certain problems and respond more appropriately to the needs of its client groups. It will watch the results of its implementation carefully.

A broken promise

One of the complaints received was regarding a citizen who was a victim of a crime in 2003. The Direction refused to accept her claim, so she exercised her recourse before to the Tribunal administratif du Québec. Following a conciliation signed in March 2006, the claim was accepted and the file returned to the Direction de l'indemnisation des victimes d'actes criminels so that it could decide on her compensation.

In June 2006, the social worker helping the victim contacted Québec Ombudsman because she had been unsuccessful in having the Tribunal's decision enforced. She said that upon the signing of the conciliation agreement, the representative of the Québec's Attorney General had promised the victim to ask the agency to process her file as a priority, given the severe post-traumatic shock the victim was suffering from. Unfortunately, the file was not processed, in spite of the commitment made by the compensation agent.

In the beginning of July, the Québec Ombudsman intervened with the Direction de l'indemnisation des victimes d'actes criminels to ask that the victim be evaluated as soon as possible in accordance with the decision of the Tribunal.

In August 2006, the Québec Ombudsman learned that the appointment with the psychiatrist who should assess the psychological injuries was set for November 2006. Following another intervention on the part of the Québec Ombudsman, the appointment was moved forward two months to September 2006.

In the interim, the social worker contacted the Québec Ombudsman again. The victim had just learned that her physical injuries would be assessed a few weeks later and received no further details, postponing the decision once again.

The Québec Ombudsman intervened again to ask that the assessments be done in close succession to allow the victim to move on. This request was granted.

The Curateur public du Québec

The Curateur public du Québec has a mission to protect incapacitated citizens through measures tailored to their specific circumstances and condition. It must ensure that all decisions regarding these persons or their property take their interests into consideration, respect their rights, and focus on helping them remain independent. It is mandated to inform and increase the awareness of the population and those involved of the special needs of those who are unfit.

MAJOR CHANGES WITHIN THE ORGANIZATION

A new Public Curator was named on April 8, 2006. In January 2007, a few months after her nomination, changes were made to the existing organizational chart to improve the degree of supervision, and thereby hasten follow-up of orientations and improve quality control mechanisms.

One of the most noteworthy changes implemented over the last year involves the transfer of the temporary administration of unclaimed property to Revenu Québec. This transfer took effect on April 1, 2006. Some sections of the *Public Curator Act* were subsequently amended.

EVOLUTION OF THE CLIENTELE

On March 31, 2006, 37, 461 persons in Québec were under public protective supervision or private protective supervision, an increase of 3.9% over the previous fiscal year. The number of citizens protected through a curatorship increased by 5.9%, while the number of adult tutorships decreased by 3.5%. These statistics are the result of the 2004-2005 introduction of a new procedure for reassessing protection requirements of the persons supervised. Hence, the number of recommendations for program reviews increased from 183 in 2004-2005 to 681 in 2005-2006. These generally concerned the transformation of tutorships into curatorships. In fact, the number of new private protective supervision programs grew by 22%.

Complaints Reviewed by the Québec Ombudsman

Curateur public	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	98	126	99	27

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

The Québec Ombudsman has received varied complaints regarding the Curateur public du Québec. They mostly concerned wealth management for persons under public supervision and the overseeing of private protective supervision programs. Numerous problems raised by citizens involved the protection and representation of persons, as well as the reassessment of private protective programs.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS: WHAT PROGRESS HAS BEEN MADE?

This year the Québec Ombudsman continued overseeing the implementation of the recommendations it submitted in past special reports and other venues. Many of these files are closed or nearly so. In addition to reviewing specific files, the Public Curator and the Ombudsperson, along with their respective management teams, held two work sessions over the course of the last year, with certain files subject to particular follow-up.

The monitoring of private programs is particularly of concern. There have been delays in resolving files, particularly as regards the replacement of faulty private representatives. The Curateur public grants top priority to settling such issues, and by April 2010, it plans to have progressively strengthened its supervision methods so as to take protective measures in a greater number of cases and to manage risks in a more timely fashion.

AUTHORITY AS AN INVESTIGATION COMMISSIONER

The Québec Ombudsman recommended that the Curateur public adopt rules governing the scope of its power to investigate reports of physical or psychological abuse likely to endanger the health, security, dignity, or integrity of wards. The Curateur public has recognized the need for speedier action in cases of abuse or risk of abuse, and has created a task force for reviewing how it could increase its authority in this regard. Investigations are now the responsibility of the Direction générale des affaires juridiques et des enquêtes. The Curateur public also reached an agreement with the Commission des droits de la personne et des droits de la jeunesse, which also acts in defence of persons who are mistreated.

UNDERSTANDING ITS CLIENTELE

The Québec Ombudsman asked the Curateur public to regularly visit—at least once a year—all those it represents. In the case of accommodated persons, these visits would allow for ensuring that they are monitored through individual plans prepared by the health and social services network.

This initiative is progressing at a steady clip. In 2005-2006, slightly over half of the persons represented (52%) were visited. This was 14% more than the previous year. Around 66% of supervised persons living in their homes were visited by a Curateur public representative, and the agency estimates that it made over 6,000 visits in 2006-2007. Numerous activities, moreover, enabled it to exchange with over a thousand other people.

The Québec Ombudsman recommends that the Curateur public increase the number of visits to its clientele and conscientiously log these.

CONSENT FOR CARE

In the Québec Ombudsman's opinion, the Curateur public needed to increase its efforts to ensure health professionals sought out its consent prior to treating the persons it represented.

The Curateur public published a newsletter concerning consent for care of persons under the protective supervision program. This tool was distributed throughout the health and social services network, and posted on the Curateur public's Web site. Follow-up with regard to this consent was done during visits to establishments, and discussed during the information sessions provided for health and social services network staff. Each year, around 6,000 requests for consent are submitted. Medical files must include a note that the person is represented by the Curateur public whenever applicable.

REPLACEMENT OF THE EVALUATION PROGRAM OF THE SERVICES PROVIDED AND THE QUALITY OF LIFE OF WARDS

The Québec Ombudsman recommended that the Curateur public take the necessary measures to adequately assess the quality of life and services delivered to wards living in establishments. In light of this program's abandonment, in January 2004, the Québec Ombudsman sought to ensure that the Curateur public would continue to gather critical information.

Since September 2005, appointed curators, acting in the capacity of personal representatives, conduct visits to monitor the quality of services delivered by actors from the Ministère de la Santé et des Services sociaux and family resources. The Curateur public receives all evaluation reports, which are analyzed by the Direction médicale; then, specific recommendations are made and submitted to territorial directorates. The Curateur public, moreover, is apprised of the establishment action plans submitted to local health and social services agencies, particularly with regard to any necessary corrections. Implementation of these corrections is monitored by the appointed curator.

Since November 2006, the Direction territoriale Nord has been participating in a pilot project for visits to clients staying in establishments or accommodated by other regional resources. This initiative has become an ongoing activity, applicable to all territorial directorates.

These regional directorates also visit various establishments to deal with specific problems that occur. A health professional is also responsible for touring the province and investigating cases selected at random.

PRODUCTION OF A SIMPLIFIED MONTHLY REPORT

The Québec Ombudsman suggested to the Curateur public that it provide its personnel with a "simplified monthly report" its clientele would find easier to understand.

While the existing computer system cannot generate such reports for all of the persons represented, the Curateur public can manually produce reports to meet specific needs. This represents a significant amount of work, with the best solution involving a redesign of the computer system. This initiative, begun in 2004, has been significantly delayed, negatively affecting the conscientious supervision of wards. The Québec Ombudsman discussed this issue with the new Public Curator, who agreed to make the resolution of this matter a priority.

MANAGEMENT OF ALLOWANCES FOR PERSONAL EXPENSES

In the fall of 2004, the Auditor General questioned the Curateur public as to the verification of management of personal expense allowances. Subsequent to this intervention, the Curateur public introduced a program for summary audits of allowances which included a targeted inspection process. In June 2005, the Auditor General decreed that the Curateur public had met its expectations in this regard.

The auditing program was implemented on an ongoing basis beginning in September 2006. The Curateur public created a sampling of 225 persons. It then proceeded to analyze monthly accounting files from the previous year by means of a questionnaire, after which it examined receipts for expenses from one of the twelve months in the year. Lastly, it conducted a control visit. The program includes a follow-up plan for establishments and resources that do not comply with the management guide's orientations, and is the object of an annual management report.

THE ANNUAL MANAGEMENT REPORT

The Québec Ombudsman believes that the annual management report should be sent to all persons under private tutorship or curatorship in accordance with the obligations of legal representatives under the Civil Code of Québec. The Curateur public has notified us that it is amending its directives in this regard and has promised to keep the Québec Ombudsman informed of its progress.

THE REASSESSMENT AND REVISION OF PROTECTIVE PROGRAMS

The Québec Ombudsman asked that changes be made to the typical letter sent by the Curateur public to wards to inform them of their rights and options of recourse when contesting existing programs.

Since April 1, 2006, the Curateur public sends persons who are under protective supervision a letter entitled "Agreement to maintain protective supervision". Signed by the assigned curator representing the person under protective supervision, it informs the latter of its right to be reassessed at any time.

Recommendations regarding the reassessment and revision of supervision programs will be included in the Curateur public's 2006-2007 operating plan. The Québec Ombudsman suggests that the Curateur public record the wishes of persons under protective supervision when programs are maintained. It also asks that the guide for professionals include information on the rights of incapacitated adults to receive a copy of the evaluation report. The Curateur public has committed to making changes to this guide over the next year.

APPOINTING A TUTOR OR CURATOR

When a minor person or incapacitated person of full age is entitled to benefits, the Société de l'assurance automobile du Québec (SAAQ) or the Commission de la santé et de la sécurité du travail (CSST) will pay this compensation to his or her tutor or curator. If there is no tutor or curator, the SAAQ or CSST will appoint a representative who will have the authority and duties inherent to the function. The administrator in such cases may never come to the attention of the Curateur public.

The Québec Ombudsman disclosed this disturbing situation to the Curateur public, emphasizing the related risks of dissipation or poor administration.

The Curateur public agreed to produce a general document on the topic destined to all agencies likely to find themselves remitting amounts to minor or incapacitated persons. The Québec Ombudsman is keeping a close eye on this issue, both from the perspective of the Curateur public and with regard to other agencies or bodies.

OVERSEEING INSTANCES OF PRIVATE SUPERVISION

Monitoring cases of private protective supervision is one of the primary mandates of the Curateur public. Its 2006-2010 strategic plan and the action plan currently in force both foresee the agency offering additional support and information. These documents notably comprise commitments aiming to improve the degree to which tutorships and curatorships are supervised. There is also a focus on faster action with regard to incapacitated persons who are being or are at risk of being abused. The Curateur public considers these actions priorities. The Québec Ombudsman will closely monitor the implementation of this strategic plan.

DELAYS IN ACCOUNTING AND IN PAYING HEIRS

In April 2006, the Curateur public developed an approach for administering the wealth of persons under supervision after their death. Based on this approach, heirs must receive their inheritance within a legal time frame of 183 days after the death of a ward. This objective should be reached by 2007. According to the Curateur public, this time frame does not have any undue impacts on heirs or assigns. Accounting is completed in 90 days or less.

ADMISSIBILITY THRESHOLD FOR FEES

The Québec Ombudsman asked the Curateur public to retroactively cancel fees charged persons whose monthly income is less than or equal to old age security benefits plus the guaranteed income supplement.

The Curateur public opted to widen the criteria of its mandate and to not charge fees in such cases. This decision was made retroactive to April 1, 2005.

PROTECTION AND SUPERVISION OF PERSONS

A debt increases the anxiety level of a person under protective supervision

A citizen suffering from paranoid schizophrenia had been a ward of the Curateur public since 1989. He contested the Curateur public's failure to help him settle a dispute with social assistance authorities. The Ministère de l'Emploi et de la Solidarité sociale was calling for him to pay $22,000, on the grounds that he had not declared his actual circumstances in 1994 and again in 1996. He had, according to the department, failed to inform it that he was living with a spouse, as a result of which he received benefits to which he was not entitled.

According to a recent medical report, the debt was making the citizen extremely anxious and represented a risk to his health condition. He could not grasp why the Curateur public, aware of his marital situation at the time, had not declared it to authorities, which would have avoided this claim. Furthermore, he felt that the Curateur public should have disputed the claims on the grounds of incapacity.

The Québec Ombudsman concurred with the citizen's opinion regarding the Curateur public's failure to act. In an attempt to resolve the matter, the latter concurred that the Ministère de l'Emploi et de la Solidarité sociale should be contacted with regard to the case. This approach proved useful in explaining the citizen's particular circumstances to the department, and at the Québec Ombudsman's request, the Department took his exceptional situation into account and cancelled the $22,000 debt.

A futilely stressful move

On December 20, 2006, a young woman represented by the Curateur public moved into a supervised apartment.[1] It was agreed that the Curateur public would pay her $250 for her moving expenses and food. The citizen never received her cheque, and her attempts to reach the Curateur public employee in charge of her file were unsuccessful. With Christmas fast approaching, she became increasingly nervous at the thought of having nothing to eat. The Québec Ombudsman intervened with the Curateur public, asking it to reassure the young woman and make sure she had all that she needed. The Curateur public issued a new cheque just a few days later.

1/ Supervised apartment: a lodging where a person can live alone and become increasingly independent, while remaining entitled to services meeting her needs and a social follow-up.

An extremely distressing mistake for a citizen

A citizen under the supervision of the Curateur public since only a few weeks lived alone in an apartment but was taken care of by her cousin, whom she trusted and who even shopped for her groceries every week. The cousin withdrew the money necessary to buy food from her bank account, until it was frozen by the Curateur public and he could no longer access it. The citizen was at her wits' end, thinking she would no longer have anything to eat. The Québec Ombudsman's action with the Curateur public resulted in the cousin being able to withdraw pre-authorized amounts of money to meet the citizen's needs. The person responsible for the file mistakenly thought that her bank account could still be accessed, despite the funds being frozen by the Curateur public.

Paltry purchases by an incarcerated person

An incarcerated citizen represented by the Curateur public for the past six years asked the agency to provide him with money to buy toiletries. His request was denied, on the grounds that the products involved were provided by the detention centre free of charge. In fact, this was not the case. Prisoners who have money must personally pay for the cost of basic toiletry items. The Québec Ombudsman's involvement led to a quick resolution of the problem, and the incarcerated citizen was rapidly sent a sum of money.

WEALTH MANAGEMENT

Delayed accounting and payment subsequent to a death

In November 2005, a citizen who had been represented by the Curateur public for the previous eight months passed away. His spouse asked the Curateur public for help in speeding up the accounting and payment of her inheritance, seeing as she was in dire financial straits. She was receiving social assistance benefits of $570 a month and would have to leave her lodgings because her rent was too high. The person in charge of the file replied that such cases generally took around a year to be settled. Knowing she could not hang on that long, the citizen contacted the Québec Ombudsman for assistance.

In addition to unacceptable delays, the Québec Ombudsman noted several other deficiencies. The Curateur public was notably refusing to send the citizen the information she was being asked for by the Ministère de l'Emploi et de la Solidarité sociale. Moreover, the Curateur public had entered an erroneous debt of $18,000 in her file. In fact, the Curateur public had neglected to take the steps required with respect to the Régie de l'assurance maladie du Québec to correct an error that inflated the amount of the debt. The Québec Ombudsman felt it was necessary to advise the notary, a legal aid representative, of these facts, so the inheritance could be properly shared and settled. The final accounting was completed in August 2006, and the spouse received a cheque for $12,000.

Two delayed old age security pension applications

The Curateur public is at times late in requesting old age security pension benefits for the persons it represents who have reached 65 years of age. Pension applications must be submitted a few months prior to a citizen's 65th birthday, so the file can be opened and monthly benefits remitted in a timely fashion.

In investigating a complaint, the Québec Ombudsman noted that the Curateur public had charged interest to an incapacitated person to whom it had advanced funds until old age benefits began to kick in. Yet, the delay in receiving benefits was due to the Curateur public having submitted the necessary application past the stipulated deadline. The Québec Ombudsman shared its findings with the Curateur public, which agreed to waive the interest charged.

Another citizen represented by the Curateur public submitted her own request for old age pension benefits, fearing that she would otherwise not receive them. She was certain that delays would have prevented her from exercising her right to these benefits. The Québec Ombudsman made sure she did not lose out, despite the fact that the Curateur public was late in filing her application. The Curateur public notably admitted that the application should have been submitted earlier.

Late cancelling of a line of credit

A citizen under tutorship for the past 30 years had over time used twice the limit of the line of credit of $2,000 which had been extended to her by a Caisse populaire. Because the Curateur public took its time cancelling this line of credit, she had been able to withdraw a total of $4,476.65 while only paying back $2,488.08 of this amount. A balance of $1,988.57, plus around $300 in interest, remained to be paid. As a result of the Québec Ombudsman's stepping in, a resolution was quickly reached, and the citizen's line of credit was cancelled. The Caisse populaire closed her account and agreed to waive the amount owing so that the citizen would not have to pay this debt.

The Curateur public slow and faulty at negotiating leases

The Québec Ombudsman recommended to the Curateur public that it prepare a guide for the early termination of residential leases for persons under public protective supervision. This was done in April 2006. Problems would occur when a person needed to leave his or her lodgings and go live elsewhere. The Curateur public would pay three months' rent without checking whether the lodging in question had been re-let for the period in question. The Curateur public agreed to set guidelines for its staff in this regard. These guidelines notably include checking whether the landlord was able to re-let the lodging within the lease cancellation period. If such was the case, only the months when the apartment was empty would be paid.

RE-EVALUATING PROTECTIVE SUPERVISION

Failure to re-evaluate a protective supervision program

A young man had been represented by a private curator since 1999. He contacted the Québec Ombudsman because he was waiting on the first re-evaluation of his protective supervision program, as provided for by law. Upon verification, the Québec Ombudsman noted that the protective program should have been re-evaluated many years previously. In support of the citizen, the Québec Ombudsman insisted that this be done as quickly as possible.

As a result of this evaluation, the citizen now benefits from a tutorship rather than a curatorship. The Curateur public was not inclined to ask the private curator to request a re-evaluation. In this instance, the Québec Ombudsman feels that the Curateur public did not adequately fill its role of supervising private representatives.

The Financière agricole du Québec

The Financière agricole du Québec administers financial tools designed to help bolster and promote development of the agricultural and agri-food sectors, with special emphasis on the primary sector.

To help sustain the economic stability of farm businesses, the Financière manages agricultural and forest funding programs that include guaranteed loans, protection against interest rate hikes, financial assistance for agricultural start-ups, venture capital investments, stabilization insurance, crop insurance and the Canadian Agricultural Income Stabilization (CAIS) program.

Complaints Reviewed by the Québec Ombudsman

The Financière agricole du Québec	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	3	3	2	1

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

The few complaints received by the Québec Ombudsman concerned guaranteed loan funding programs, insurance or the Canadian Agricultural Income Stabilization program. The Québec Ombudsman would like to present a particular case with which it was involved, notably due to its scope and impact.

A circumspect and scrupulous citizen is penalized

In the spring of 2005, a farmer was planning to sell his flock of sheep. He was enrolled in the agricultural income stabilization insurance program administered by the Financière agricole du Québec but had not yet paid his dues for the year under way. In March of that year, he inquired as to whether he could transfer his insurance contract to an eventual buyer without having to pay his dues for the current year. The Financière replied that he could, as long as the sale was finalized prior to May 31, 2005.

In April 2005, the farmer found a buyer, and the parties agreed on the details regarding the date of purchase, date of possession and transfer of the animals. It was agreed that the new owner would pay the annual membership fee for 2005. On May 9, the farmer notified the Financière that the sale had been concluded, and on May 12, a Financière officer visited the farm to inventory the flock.

On May 30, the new owner took possession of the flock and gave the seller his payment, as well as the form for the transfer of the insurance contract. The seller personally submitted the completed document to a Financière employee that very same day.

Despite the vigilance and various actions taken by the seller, the Financière charged him the dues for the period from January 1 to May 31, 2005 and paid itself by withholding a compensation it owed him.

The farmer asked the Financière to reimburse him the amount of his dues—a request that was refused. The person in charge of the case claimed that the Financière should have had the necessary form by May 17 at the very least, and not May 30, so that it could prepare the paperwork regarding the payment and dues. He added that the transfer agreement for the insurance contract included a provision whereby 2005 dues, already paid by the seller, were assumed to have been paid by the buyer. Lastly, he specified that the farmer was not entitled to file an objection, given that the stipulated 30-day period had expired. The farmer then proceeded to contact the Québec Ombudsman.

Subsequent to its investigation, the Québec Ombudsman concluded that the farmer acted vigilantly and in compliance with the Financière's requirements. It also considered that the latter had knowledge of the sale of the flock prior to May 17, given its inventory of the sheep on May 12. The Québec Ombudsman also learned that had a simple note been included in the farmer's computer file, he would not have been charged the dues in question. Moreover, on May 30, the date on which the transfer agreement was signed, the Financière could not allege that the buyer had benefited from the payment of these dues, as these had not yet been paid by the seller. As regards the time period for contesting a decision, it was not determined by law, but was rather the result of an administrative procedure. The fact that it had been exceeded should not have resulted in the loss of the right to a review.

The Québec Ombudsman deemed that the decision was unfair, for despite the assignment of the contract, the seller was not entitled to any compensation for having paid the dues in question for a five-month period. The buyer, on the other hand, enjoyed an entire year of benefits upon payment of dues for a seven-month period. At the Québec Ombudsman's request, the Financière amended its decision and refunded the farmer an amount a little above than $1,400.

The Régie de l'assurance maladie du Québec

The Régie de l'assurance maladie du Québec, which is under the jurisdiction of the Minister of Health and Social Services, administers the province's health and drug insurance plans. It also manages around 40 related programs, among them the Financial Contribution Program for Accommodated Adults, the Financial Assistance Program for Domestic Help Services and the Financial Assistance Program for Persons Infected With the Hepatitis C Virus, as well as programs covering hospital services received outside of Québec, and visual and hearing aids.

The Régie informs the public as to the services covered and the related eligibility conditions. It also determines eligibility to plans and programs that it is mandated to administer by the government or under the law.

The Régie, moreover, oversees payments made to health and social services professionals, as well as payments or reimbursements to laboratories and other service providers. The Régie plays an advisory role with the Minister of Health and Social Services, and contributes to research in the health and social services sector.

The health insurance plan is a universal plan that grants persons established in Québec, and, in certain particular cases, persons sojourning in Québec, free access to covered health services. The drug insurance plan, in turn, aims to provide all Québec citizens with reasonable and equal access to the medications required given their health condition.

Complaints Reviewed by the Québec Ombudsman

Régie de l'assurance maladie du Québec	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	141	143	132	11

* Excluding complaints whose processing was interrupted or which were referred.

TYPE OF COMPLAINTS

The complaints reviewed by the Québec Ombudsman are almost evenly split between those concerning the health insurance and drug insurance plans, while around 8% of them regard the Financial Contribution Program for Accommodated Adults.

HEALTH INSURANCE PLAN

As regards the health insurance plan, citizens are dissatisfied with the plan's eligibility conditions, and the time it takes to issue a first card or a card to someone who returns to Québec after an absence of several years. They have also noted problems with eligibility rules concerning insured services such as hearing aids, visual aids and devices that compensate for physical disabilities. Numerous citizens have stated that they find the Régie's requirements outrageous. The fact that these conditions are usually justified and adhere to regulations likely explains the low percentage of substantiated complaints.

PUBLIC DRUG INSURANCE PLAN

Around 44% of all complaints submitted to the Québec Ombudsman concern registration for the drug insurance plan. Depending on their family or employment situation, citizens must be covered by a private insurance plan or register for the public drug insurance plan administered by the Régie. Problems with the information disseminated to the population in this specific regard were raised in the Québec Ombudsman's 2002-2003 and 2003-2004 annual reports.

The Régie responded by holding an information campaign and developing a number of promotional tools, including brochures, advertising messages and additional information on its Web site. The message conveyed by this initiative—the largest of its type since 1997—explained that adults who were eligible for a private drug plan had to be covered by that plan, and that persons with no access to such a plan were obliged to register for the public plan. The Régie initially targeted adults and the elderly, in the spring of 2005. In the spring of 2006, it proceeded to target youth aged 18 to 25. This campaign increased the percentage of citizens aged 25 to 55 who are aware that being covered under a drug insurance plan is mandatory from 77% to 84%.

The number of complaints in this regard dropped this year, which we take as an indication that the Régie in large part successfully compensated for the lack of available information. The Québec Ombudsman hopes that the Régie will continue its efforts in this specific area.

Another measure seeking to better inform the population deserves to be underscored. The Régie created an exercise, included on its Web site, to enable citizens to check whether they are covered by the appropriate private or public plan. Respondents have access to information on plan coverage and are invited to contact the Régie if they have any questions. The Québec Ombudsman applauds this initiative.

SERVICES FINALLY INSURED

Last June 8, changes were made to *An Act respecting hearing devices and insured devices*. Digital prostheses were added to the list of hearing devices covered by the Régie. This resulted in an improved range of insured devices and services. Citizens who had been unable to obtain a reimbursement of their expenses for acquiring devices relying on digital technology had notably complained to the Québec Ombudsman.

Useless red tape

In the spring of 2006, a citizen attempted to renew his health insurance card, which had expired in April 2005. On May 15, 2006, he went to a local community service centre (CLSC), submitted his duly completed form and paid the required $15 fee. He then had his picture taken, after which he presented a proof of residency, as provided for under the regulation.

The Régie denied his proof of residency, claiming that it could not accept the document submitted as constituting a lease. The citizen in question lived in public housing. He proceeded to contact the Québec Ombudsman.

After having assessed the proof of residency in question, the Québec Ombudsman concluded that it incorporated all of the information normally found on a lease. It therefore felt that while different from a traditional lease, the document nonetheless included all of the information necessary for obtaining a health insurance card, namely the address, period covered and signatures of the parties. Consequently, it asked the Régie to review its decision. The Régie agreed to do so and subsequently issued the citizen his card.

The Régie des rentes du Québec

The Régie des rentes du Québec is responsible for applying *An Act respecting the Québec Pension Plan* and the *Supplemental Pension Plans Act*. It also administers the child assistance measure that is part of Québec's family policy.

THE QUÉBEC PENSION PLAN

The Québec Pension Plan is a universal, compulsory social security plan. It is financed in equal parts through the contributions of workers and employers. Self-employed workers make the contributions in their entirety. The law sets the contribution rate and provides for the payment of a pension upon retirement or death, or in the event of disability. In 10 years, the number of contributors to the Québec Pension Plan has grown from 999,591 to 1,384,377, an increase of 39%. The aging of the population has a growing impact on the demand for the services provided by this agency.

The Régie acts as a liaison for the implementation of international social security agreements entered into with 29 countries. These agreements allow citizens of Québec and their spouses to obtain retirement, disability or death benefits from a foreign country in which they have worked. The agreements are negotiated and entered into by the Ministère des Relations internationales, and they are applied by the Régie's Bureau des ententes de sécurité sociale.

SUPPLEMENTAL PENSION PLANS

Supplemental pension plans, which are generally established by employers, are subject to the *Supplemental Pension Plans Act*. The Régie has a dual mandate with regards to supplemental pension plans. First, it ensures that their administration and operation comply with the law. Its oversight relates to three areas: the protection of the rights of participants and beneficiaries, finances, and the sound administration of the plan. Second, the Régie promotes financial planning for retirement, in particular by disseminating information, and encouraging the establishment and improvement of pension plans.

CHILD ASSISTANCE: FAMILIES NOW DEAL WITH THE RÉGIE

The family policy's child assistance measure has two components: the refundable tax credit for child assistance and the supplement for handicapped children.

The tax credit is a form of financial assistance for all families with dependent children under 18. It is provided for in the Taxation Act, which is the responsibility of Québec's Minister of Revenue. The latest data available shows that in 2005, 855,894 people claimed the credit. As for the supplement for handicapped children, its goal is to help families undertake the custody, care and education of a handicapped child. The handicap must be significant in that it limits the child significantly in daily activities, and its anticipated duration must be at least one year.

Since January 1, 2007, the Régie has managed the determination of eligibility for the tax credit. Parents now signal any change in their family situation to the Régie. Previously, they had to inform the Canada Revenue Agency, which transmitted the information to the Régie, resulting in additional delays in the payment of amounts to which citizens were entitled. The Régie now benefits from greater flexibility in the processing and monitoring of files, which should reduce the dissatisfaction of citizens.

Complaints Reviewed by the Québec Ombudsman

Régie des rentes du Québec	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	115	118	96	22

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

In 2006-2007, complaints about the Régie were mainly involved the Québec Pension Plan. The majority related to the refusal of a disability pension in situations in which citizens contested the interpretation of the medical file. The other most common grounds for complaint to the Québec Ombudsman were inadequate contributions to the plan, depriving citizens of benefits.

With regards to the refundable tax credit for child assistance, grounds for complaint included incomplete notices, terms of repayment, processing time, changes to a file and processing errors.

Supplemental pension plans generate few complaints to the Québec Ombudsman. Those received related to the termination of a plan, premium holidays, surplus assets and the dissemination of information.

MORE FLEXIBILITY IN RECOVERING OVERPAYMENTS

The refundable tax credit for child assistance is provided for in tax law and depends on family income. It can occur that the Régie overpays parents if there is a change in the family situation or for some other reason. In such cases, the terms for repaying the debt are established based on family income. These terms are not negotiable.

The Régie collects amounts due to it through deductions on future payments. For example, if the annual family income is equal to or lower than $35,000, the Régie can deduct up to 50% of the anticipated monthly reimbursement for repaying the debt resulting from overpayments. If the family income is higher, it can recover up to 100% of the amount of the debt. The credit replaced and improved family allowance, which was a social measure, and it is intended to provide direct assistance to families. The Québec Ombudsman is continuing its analysis to identify all possible solutions for making the terms of repayment more flexible, while respecting the objective of the child assistance measure, in particular for low-income families.

WHO BENEFITS FROM THE TAX CREDIT?

The refundable tax credit for child assistance is paid to one person per family. Until the end of 2006, it was the female spouse who received the refund, even if, in the case of a blended family, she had no dependent children. This measure resulted in disputes between spouses. With the new measures that came into effect on January 1, 2007, spouses can now agree on who will benefit from the tax credit for child assistance.

Furthermore, complaints made to the Québec Ombudsman raised an issue with regards to shared custody.

Families who share custody of a child virtually equally during the month could benefit successively from a portion of the credit. Modifications were made on January 1, 2007 to allow for the simultaneous payment of assistance to the two families, according to calculation rules that apply to shared custody of one or more children. The Québec Ombudsman believes this is a significant improvement that will provide families with a more stable income.

SURVIVING SPOUSE'S PENSION: MAINTAINING THE RIGHT OF RETROACTIVITY

In 2001-2002, in its annual report, the Québec Ombudsman noted a problem of harmonization among laws. *An Act respecting the Québec Pension Plan* stipulates that a surviving spouse's pension is payable as of the month following that in which the contributor died. This law also stipulates that the payment of this pension may not extend retroactively for more than 11 months preceding the request. However, the Civil Code provides a waiting period of seven years before one may declare the death of a missing person. The Régie pays a surviving spouse's pension only upon the confirmation of the death or the expiration of the seven-year period.

Since September 2003, the Régie has changed its practices to allow citizens to submit their request even if the death has not been declared, to preserve their right to retroactivity. The information provided by the agents has changed. Citizens are advised that they should submit their request even if it will be refused because of the absence of a declaratory judgment of death. When the pension can be paid, the Régie will consider the date of the request and could grant retroactivity of up to 12 months.

The Québec Ombudsman believes that, in spite of the years that have elapsed, the law should be amended to reflect this new administrative practice, as the Régie committed to do in 2003, to ensure that the practice continues in the long term and that it is adequately publicized. In cases in which there is a declaratory judgment of death, this legislative amendment is required to ensure the preservation of the right to full retroactivity of surviving spouse's and orphan's pensions.

Recommendation

The Québec Ombudsman recommends:

That *An Act respecting the Québec Pension Plan* be amended so it is in harmony with the Civil Code of Québec, to ensure that once the declaratory judgment of death is rendered, the Régie des rentes can pay the surviving spouse's or orphan's pension retroactively to the date determined by the court.

A new analysis required

A citizen was involved in a car accident in 1984. Following this accident, he received an income replacement indemnity from the Société de l'assurance automobile du Québec until 1992 for orthopedic injuries. In 1999, following a request from the citizen, the Régie des rentes du Québec recognized him as disabled due to a psychiatric condition. It began paying the disability benefit.

In 2001, the citizen made a request to the Société de l'assurance automobile du Québec to have the relationship between his psychiatric problems and the car accident recognized. The Société refused to recognize such a relationship. The citizen then contested the decision to the Tribunal administratif du Québec.

On January 31, 2005, the Tribunal handed down the decision that there was in fact a relationship between the citizen's car accident and psychiatric problems. The Tribunal returned the file to the Société so that it could compensate the citizen accordingly.

Before authorizing the income replacement indemnity, the Société first had to find out whether the citizen was able to hold down a job. The Société, knowing that the citizen was receiving a disability benefit from the Régie, issued a request to the agency to verify whether the disability it recognized was related to the car accident. The Régie responded that it believed that this disability was not related to the accident. In accordance with the *Automobile Insurance Act*, the Régie's position made it impossible for the Société to provide an income replacement indemnity, because an accident victim who is unable to hold a job for any reason other than his age cannot receive the indemnity, since the accident victim has effectively suffered no real loss of income as a result of the accident.

After examining the citizen's position that his only disability was related to his car accident, the Québec Ombudsman asked the Régie to reconsider its opinion in light of the decision rendered by the Tribunal administratif du Québec.

After analysis, the Régie agreed to review its opinion on the causes of the disability and recognized a link between the disability and the car accident. Finally, since all parties agreed that the disability recognized by the Régie was related to the car accident, the Société de l'assurance automobile du Québec started payments of the income replacement indemnity retroactively to August 1999, subtracting amounts already paid by the Régie. This compensation was higher than the disability pension from the Régie.

The Société de l'assurance automobile du Québec

The mission of the Société de l'assurance automobile du Québec (SAAQ) is to protect and insure Québec citizens against risks inherent in use of the road. This mission comprises four mandates:

- road accident victims' compensation and their rehabilitation;
- road safety promotion;
- monitoring access to the Québec highway network, and the collection of driver's licence and vehicle registration fees;
- monitoring and ensuring control over the highway transportation of goods and passengers.

A PUBLICLY ADMINISTERED MONOPOLY

Risks related to highway use in Québec have been collectively administered since 1978. The Société de l'assurance automobile du Québec was created to oversee a no-fault insurance system and manage access to the road network; it is also responsible for ensuring the safe transportation of passengers and goods.

The SAAQ single-handedly administers a plan for the compensation of road accident victims having suffered bodily injuries, as well as solely overseeing the right to make use of the road network. In this regard, its activities are twofold: enforcement of the Highway Safety Code and compensation of road accident victims. Through its duties in the area of highway safety, the SAAQ plays a role in one of the State's core missions, that of ensuring public safety.

Citizens are notably protected as a result of the SAAQ's enforcement and compensation activities. The SAAQ has significant responsibilities and duties in all of its areas of activities, and is accountable for the measures it adopts and its results with regard to the quality of services it ensures citizens. The Québec Ombudsman again observed problems in this regard in 2006-2007. While these problems are specific to each area of activity, they share a common trait, namely that of involving SAAQ services or functions that have a direct impact on citizens.

MAINTAINING SERVICE QUALITY DESPITE CUTBACKS

The Québec Ombudsman is aware of the SAAQ's budgetary reality, and understands the targets it has set with the goal of streamlining its operating expenses. Throughout this process, which is in line with the government objective of cutting back on the number of public servants and the introduction of Services Québec, particular attention will need to be paid to the quality of the services delivered to citizens.

Given its financial situation, the SAAQ foresees, in its 2006-2010 strategic plan, having to decrease its personnel by 10% and slash its operating expenses by several tens of millions of dollars. At the same time, it anticipates an annual increase of around 160,000 vehicle registrations (2%) and 76,000 driver's licences (1.6%), as well as increased demand on the highway network.

Given this reality, the Québec Ombudsman will be particularly vigilant, and strive to ensure that the organization's unavoidable financial adjustment does not prejudice accident victims and users of the road network.

It will specifically watch the quality of the services the agency delivers to citizens, while observing the impacts of grouping together, at the same premises, SAAQ and Services Québec services, as well as those of other departments and agencies that could eventually be added. This physical gathering of entities is notably part of the government's decision to have the SAAQ's network of service centres become the hub of Services Québec's counter-based services. The Québec Ombudsman will ensure that the expertise thus transferred is maintained in the execution of Services Québec's broader mandate. As regards compensation of road accident victims, the Québec Ombudsman will ensure that the staff cutbacks do not have negative repercussions on the handling of accident victim files.

Recommendation

The Québec Ombudsman recommends:

That maintaining and improving services constitute formal criteria the Société de l'assurance automobile du Québec must necessarily and systematically take into account during administrative decision-making and the implementation of measures for reducing operating costs.

COMPENSATION OF ROAD ACCIDENT VICTIMS

Complaints Reviewed by the Québec Ombudsman

Compensation of road accident victims	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	266	361	201	160

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

As regards compensation of road accident victims, the Québec Ombudsman receives, among others, complaints concerning the sometimes unacceptable delays before the SAAQ obtains medical opinions. Citizens also decry the absence of adequate explanations for decisions regarding disability which lead to the termination of income replacement indemnities. The Québec Ombudsman also intervenes when two agencies, notably the SAAQ and the Commission de la santé et de la sécurité du travail (CSST), pass the buck, and respectively claim that the other is responsible for compensating a citizen.

In our opinion, the percentage of 2006-2007 complaints with substantiated grounds is still very worrisome. This year, nearly 50% of the complaints received were again found to have substantiated grounds. In other words, nearly one in every two citizens who contacted the Québec Ombudsman was in fact prejudiced by the SAAQ's actions or lack thereof.

These figures can be partially explained by certain new or existing system deficiencies, which we will further address in upcoming pages. These data are nonetheless a clear indication that the SAAQ's performance in providing quality services to some accident victims is unsatisfactory.

IMPLEMENTATION OF THE SAAQ'S 2006-2008 ACTION PLAN

In its 2005-2006 annual report, the Québec Ombudsman once again castigated the SAAQ with regard to the delays involved in rendering decisions under review and in obtaining medical opinions. The Québec Ombudsman considered it important to take action, for unacceptable response times were having a direct impact on citizens. In this regard, it noted that the SAAQ had introduced a three-year action plan and undertaken to closely monitor the impact of its new orientation on services to accident victims.

RESPONSE TIMES FOR REVIEW DECISIONS

The Québec Ombudsman observed a significant decrease in response times for review decisions this past year. In December 2005, a road accident victim would on average wait 9.2 months before the SAAQ's review branch reached a decision. One year later, in December, this time period was 4 months. The backlog of files being processed also decreased, dropping from 8,667 in December 2005 to 3,950 in December 2006.

Based on the information received, the improvement is due to the hiring of personnel for a set time period. The Québec Ombudsman will continue to monitor the situation, with the aim of ensuring that processing times will not suffer once temporary employees are let go. The Québec Ombudsman feels that the decreased waiting time is a positive development for all road accident victims and must continue to be a focus in the future.

DELAYS IN OBTAINING MEDICAL OPINIONS

The Québec Ombudsman has not observed any major improvement, compared to the last two years, in the time frames for obtaining opinions with a direct impact on accident victims. It has even noted a slight increase in the average response time for all medical opinions, compared to the previous year. Road accident victims are prejudiced when the SAAQ cannot obtain medical opinions within a reasonable time frame. In such cases, the prejudice is concretely translated into delays in receiving compensation, which citizens who are victims of road accidents need to meet their financial obligations.

In this regard, an analysis of existing statistics indicates that prejudice is most likely to occur for two specific types of medical opinions, namely those which attempt to draw a link between an accident and a disability prohibiting work, and those involving later after-effects. These opinions are requested in an effort to determine whether a disability prohibiting work and/or after-effects are caused by a road accident. In 2006, for example, accident victims who were workers at the time of their accident or when they filed a claim after having suffered after-effects respectively had to wait an average of 73 and 96 days before obtaining a medical opinion that would enable the SAAQ to render a decision on whether or not to authorize an income replacement indemnity. During this waiting period, accident victims had to personally compensate for their lost income. For example, a road accident victim who suffered after-effects and was waiting for the SAAQ to decide whether or not it would compensate him or her for a work-prohibiting disability may have had to dip into savings, go into debt or sell off assets. The impact was thus considerable. Who can financially support such a waiting time? And why should anyone be expected to do so?

While the Société de l'assurance automobile undertook to prioritize files involving workers, the information obtained does not allow us to ascertain that delays in these cases were less than the average for all other requests.

For other road accident victims, long response times for obtaining medical opinions delay the payment of lump-sum indemnities, and can also delay citizens receiving medical or rehabilitation care or treatment made necessary as a result of their accident. In some cases, these delays have a negative impact on their recovery.

To better depict the overall impact of this problem on accident victims, we will recap two situations involving people who had to contact the Québec Ombudsman to ultimately have their case settled.

A one-year delay impedes an already lengthy process

On April 18, 2005, the Tribunal administratif du Québec rendered a decision under which the SAAQ was required to acknowledge the link between a citizen's dorsolumbar pain and a road accident she had had in 1997. The SAAQ's compensation branch had to reassess the situation and render a decision as to the payment of indemnities related to acknowledging this link. Subsequent to the Tribunal's decision, the compensation officer responsible for the accident victim's file requested an opinion from a consultant physician for the SAAQ on April 27, 2005. In April 2006, the citizen complained about the lengthy response time to the Québec Ombudsman.

The Québec Ombudsman, given that the initial review process in front of the Tribunal had been initiated a while back and that a year had gone by since the Tribunal's decision, asked the SAAQ to grant priority treatment to the file. On May 25, 2006, the consultant physician responded to the April 27, 2005 request for an opinion, recommending that a 2% deficit be acknowledged with regard to the dorsolumbar region. The accident victim consequently received an amount of $3,239.91, after having waited an additional year after the review process and the Tribunal administratif du Québec hearings.

A medical opinion for a student long in coming

A student was injured during a road accident on April 29, 2003. Given the *Automobile Insurance Act* provision regarding a setback in one's studies, on October 18, 2004, she sent the SAAQ the completed form for this purpose. The SAAQ asked for a number of medical documents before it would process her request. On April 19, 2005, the compensation officer requested an opinion from a consultant physician for the SAAQ. On March 15, 2006, with no news from the SAAQ, the citizen got in touch with the Québec Ombudsman, which reviewed her complaint and asked the SAAQ to award it priority treatment, given the lengthy delays thus far. On July 3, 2006, the consultant physician issued an opinion in support of the citizen's right to compensation for the setback in her studies, after which she was paid $4,014. Given that it took the SAAQ nearly 15 months to produce an opinion.

THE SITUATION REMAINS TROUBLING

As promised, the Québec Ombudsman monitored the implementation of the SAAQ's action plan. Numerous discussions were held with representatives, as a result of which the Québec Ombudsman concluded that various actions would be taken between 2006 and 2008 to modify the SAAQ's ways of working, including but not limited to its process for obtaining medical opinions. These changes should eventually have a positive impact on such delays.

Documents obtained from the SAAQ over the last few months clearly indicate that it is aware of the problem and is attempting to find a solution. The Québec Ombudsman, in turn, is aware that given the scope of the operational changes required, the issue of delays cannot be fully resolved during the plan's first year. This being said, the Québec Ombudsman remains concerned about this situation, specifically in light of the negative impact on accident victims and the lack of true progress thus far. It therefore expects the 2006-2008 action plan to significantly impact processing time frames, and plans on closely monitoring the SAAQ's progress in this regard.

METHODS OF COLLECTING ON A STATUTORY CERTIFICATE OF DEFAULT

The Québec Ombudsman communicated with the SAAQ after receiving a complaint from a citizen who claimed to have been prejudiced by recovery activities with regard to a statutory certificate of default. In fact, after the victim had suffered a second accident, the SAAQ was holding back indemnities to apply them to the certificate, which is a document for attesting to the amount of a debt and the fact that it is due. After an analysis of the legislative provisions governing the prescription of judgments and compensation, the Québec Ombudsman concluded that the collection measures adopted with regard to a statutory certificate of default did not adhere to the rules provided for under the Civil Code of Québec. In view of the illegal nature of the collection measures, the Québec Ombudsman recommended that the SAAQ review its applicable internal procedure to ensure that it comply with Civil Code of Québec provisions. Subsequent to this intervention, the SAAQ amended its debt collection policy on December 4, 2006. The revised policy, a copy of which was forwarded to the Québec Ombudsman, included a debt cancellation clause to ensure that collection measures would not be initiated for those cases where the certificate of default was prescribed.

ACCESS TO TELEPHONE INFORMATION AGENTS FOR EVERYONE

A road accident victim communicated with the Québec Ombudsman to complain that her compensation officer was not returning her calls, despite the numerous voice mail messages she had left. Furthermore, she was unable to speak to anyone else, not even an information agent.

Through its investigation, the Québec Ombudsman learned that the citizen belonged to a personal treatment program for muscular strains and injuries. Under this program, accident victims had direct access to compensation officers. In this case, however, the accident victim was provided a telephone number that did not provide immediate access in the event of the compensation officer's absence.

The Québec Ombudsman is of the opinion that road accident victims must be able to reach competent resource persons at all times. It also asked the SAAQ why some road accident victims were unable to speak with information agents. The SAAQ maintained that it strove to offer all citizens fast and courteous access to required services, and furthermore committed to verifying the information submitted by the Québec Ombudsman. It effectively discovered that some telephone messages do not include an option for receiving immediate support and proceeded to take the necessary measures to correct the situation as soon as possible.

PRELIMINARY MEDICAL OPINION AND GROUNDS FOR DECISIONS

For some compensation cases, the SAAQ can require that a road accident victim be seen by a health professional of its choosing. It can, for example, ask an expert for his or her opinion as to the accident victim's capacity to resume working. Once this medical evaluation is completed, the SAAQ receives a preliminary medical opinion. This is a concise form on which the expert has indicated, by checking the appropriate boxes, whether or not a person is fit to work. The form also includes a space for any necessary comments. Once this preliminary medical opinion is received, the compensation officer reaches a decision for termination of disability if the expert has noted that the accident victim is fit to resume working.

This procedure has been in force since 2002. The purpose of this opinion, which is prepared well before the expert's final, detailed report, is to allow the SAAQ to reach a decision regarding an accident victim's ability to resume working and, when applicable, quickly cease paying income replacement benefits.

In 2004, the Québec Ombudsman reached two conclusions that prompted it to intervene with the SAAQ.

Firstly, it observed that road accident victims found it difficult to understand the decision that led to the termination of their disability, because the grounds were not disclosed to them. In fact, such decisions do not normally include any information on the specific medical findings of the expert or the SAAQ.

Secondly, it concluded that when a decision to terminate disability and, as a result, indemnities is communicated, the comprehensive medical report is not yet included in the file. At this stage, the road accident victim does not have access to all of the evidence, as it is not in the file or in the SAAQ's physical possession.

The Québec Ombudsman reiterated to the SAAQ that under section 83.43 of the *Automobile Insurance Act* and section 8 of *An Act respecting administrative justice*, a decision must have substantiated grounds and must be communicated in writing to the person in question. This aims to help ensure that decisions are based on adequate grounds, and that the latter are clearly expressed.

The grounds for a decision rendered on the basis of a preliminary medical opinion are very important, as this is the only decision taken with regard to termination of disability. Furthermore, even when the comprehensive medical report is included in the accident victim's file, no additional information is provided him or her with regard to the grounds underlying the SAAQ's decision.

The Québec Ombudsman held numerous exchanges with the SAAQ to attempt to shed some light on this problem. The SAAQ announced that it planned to stop relying on preliminary medical opinions, but without specifying a date. In the interim, it proposed implementing various transitional measures, about which the Québec Ombudsman was somewhat unsure. The SAAQ promised that it would review these.

While it appeared, as of March 31, 2007, that this issue would be settled, the Québec Ombudsman decries the amount of time it took the SAAQ to seriously investigate the matter and seek alternative solutions. The Québec Ombudsman has been critical of this practice since 2004, and the problem is still not resolved.

UNCERTAINTY AS TO WHICH AGENCY IS RESPONSIBLE FOR COMPENSATION

The Québec Ombudsman is often called upon for help in situations where accident victims are at the mercy of two agencies, both of which claim the other is responsible for compensation. It first apprised the Société de l'assurance automobile and the Commission de la santé et de la sécurité du travail of this problem in 1995.

Yet still today, citizens contact it to resolve an impasse related to uncertainty over jurisdiction, as illustrated by the following example.

A citizen caught between two agencies busy passing the buck

A citizen had a road accident on April 6, 2000, as a result of which he suffered long-lasting functional disability in the neck area. On January 25, 2002, the SAAQ rendered a decision whereby he was capable of reintegrating his job as of December 4, 2001.

On October 27, 2004, the citizen was experiencing intense pain in his neck and upper back, and left work to see his doctor. His physician recommended that he stop working and prepared a report for the SAAQ, indicating that the citizen had a cervical-dorsal sprain, a relapse from his accident injuries. The citizen filed a request with the SAAQ in this regard. On January 26, 2005, the SAAQ compensation officer refused his request, claiming that the citizen's condition ensued from a new event and did not constitute a relapse from the original road accident of April 6, 2000. He then referred the citizen to the Commission de la santé et de la sécurité du travail. This decision was thereafter confirmed by the SAAQ's Bureau de révision.

The citizen subsequently filed a claim with the Commission de la santé et de la sécurité du travail, which was accepted on March 24, 2005 but later contested by the citizen's employer. On August 9, 2005, the CSST's administrative review body denied the citizen's claim, noting the antecedents of his cervical-dorsal conditions and the initial opinions of the attending physicians at the time of the event, which did not attest to the injury having occurred while the citizen was on the job. This decision hinted that the citizen's injury was instead caused by his road accident.

The citizen then contacted the Québec Ombudsman, complaining that the was dealing with two agencies who were busy passing the buck with regard to who would be responsible for compensating him for his deteriorating medical condition. He was at this time without income and had been forced to request employment assistance benefits.

The Québec Ombudsman is of the opinion that a joint investigation should be conducted in all cases where one of the two agencies has reason to believe that an injury for which a claim is submitted to it may be related to an event under the other's jurisdiction. It consequently asked the SAAQ to analyze the file once more, and to contact the CSST if it felt that the citizen had suffered an industrial accident.

After having reviewed the file a second time, the SAAQ finally decreed that the injury was in fact a relapse of the original road accident of April 6, 2000 and proceeded to compensate the citizen. Overall, the file took 17 months to be resolved.

Such issues between the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail can have nefarious impacts on the citizens involved, as shown in the previous example. Problems can also surface when a citizen is receiving an income replacement indemnity from either the SAAQ or the CSST, and a new event occurs that is not under the authority of the agency currently compensating him. Such situations often occur, and the Québec Ombudsman each year exchanges with the SAAQ and CSST in order to seek solutions. In 2007-2008, the Québec Ombudsman intends to readdress this issue with the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail, with the aim of conducting a global review of the problem and thereby preventing such prejudices from reoccurring. The Québec Ombudsman expects that the agencies will actively cooperate in the identification and implementation of appropriate mechanisms.

Recommendations

Given that under article 83.66 of the *Automobile Insurance Act* and article 449 of *An Act respecting industrial accidents and occupational diseases*, the Société de l'assurance automobile du Québec (SAAQ) and the Commission de la santé et de la sécurité du travail (CSST) have reached an agreement regarding processing files of injured parties who, while receiving an income replacement indemnity from the SAAQ or the CSST experience a new incident that is not within the scope of responsibility of the agency providing compensation;

Given that the agreement between the SAAQ and the CSST does not cover all cases of citizens who have already received an income replacement indemnity from the SAAQ or the CSST, and who experience a new incident that is within the scope of responsibility of the other system;

Given that harmonization problems arise between the SAAQ and CSST in the review of files and on decisions rendered;

Given that there can be unfair consequences of these situations for victims of injury;

The Québec Ombudsman recommends:

That the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail identify and implement appropriate short-term solutions to harmonize their activities with regard to a single citizen.

THE HIGHWAY SAFETY CODE

Complaints Reviewed by the Québec Ombudsman

Highway Safety Code	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	161	167	147	20

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

In terms of highway safety, the Québec Ombudsman observes problems related to the SAAQ's refusal to acknowledge and assume certain responsibilities vis-à-vis its clientele. This stance is mostly obvious when renewal notices are sent, as well as in the quality of the information disseminated in service centres to citizens making transactions regarding their driver's licence or vehicle registration. The Québec Ombudsman also got involved in cases where the information provided citizens was inadequate. These, it should be noted, are in the process of bring corrected.

SENDING OUT RENEWAL NOTICES

NO OBLIGATION, YET...

The Société de l'assurance automobile enjoys a monopoly over the management of driver's licences and vehicle registration in Québec. It has adopted an administrative process whereby it sends citizens written notices of certain obligations they have, and of the methods they must adopt to comply with the Highway Safety Code. It sends out, for example, notices of driver's licence or vehicle registration renewal which tell users how much they need to pay in order to continue driving a vehicle after the set expiry date provided for in the regulation.

The Highway Safety Code does not require that the SAAQ send such notices, a fact that was confirmed in April 2006 when the Supreme Court decreed that the responsibility for renewal rested on holders of driver's licences or vehicle registrations. The SAAQ consequently does not feel it is responsible in a case where a citizen fails to receive the usual notice and is subsequently late in paying the renewal fees for his licence or registration. There are notably instances where citizens do not receive these notices because of an error committed by SAAQ personnel.

A hefty fine

A problem caused by changes to the SAAQ's computer system resulted in a retired couple not receiving their renewal notices. Because of this mistake, the citizens drove without a valid driver's licence and had to pay $430 in fines and fees. Despite concurring that the problem was essentially its fault, the SAAQ refused to apologize and failed to consider the citizens' request for restitution. It explained its position by referring to the provisions of the Highway Safety Code and the Supreme Court decision.

This particular complaint was beneficial, however, for the SAAQ proceeded to make the corrections necessary to fix its computer problem. It also sent notices to 721 other drivers who were in the same circumstances as the complainant, i.e. driving illegally.

VEHICLE CO-OWNERSHIP

The SAAQ also refuses to assume responsibility when the joint owners of a vehicle do not receive renewal notices, even if its employees are at fault. When a vehicle is jointly owned, the SAAQ agent must make a change of address, for example, in two separate registers, one for the licence and another for the registration. In so doing, he must ask every person who notifies the SAAQ of a change of address whether he or she has a vehicle that is jointly owned. Despite being included in the procedures manual, each year various agents forget to check this information. As a result, the registration renewal notice for the jointly owned vehicle is sent to the former address. For vehicles with a single owner, a change of address is automatically applied to both the licence and registration. A citizen with a jointly owned vehicle, however, will find himself driving illegally if he fails to renew his registration, even if the SAAQ sent the renewal notice to his former address. Such a situation could end up costing citizens $430 in fines and fees.

REVOKED OR SUSPENDED LICENCES

The SAAQ adopts the same stance with regard to its responsibilities vis-à-vis citizens whose licence or registration is suspended, revoked or not renewed. In a case submitted to the Québec Ombudsman, the SAAQ failed to acknowledge its responsibility when an agent neglected to advise a citizen of such a suspension or revocation. The citizen in question had to pass her driving test anew, given that it had not been valid for over three years. Yet, during this three-year period, the citizen had been to a SAAQ service centre at least twice to make transactions regarding vehicle registrations. During these visits, counter personnel never mentioned the invalid status of her licence or suggested she check her file.

The Québec Ombudsman feels that the SAAQ should be increasingly conscientious with regard to citizens who are prejudiced as a result of errors made by members of its staff. In sending out notices, the SAAQ engenders a certain degree of habit among citizens, who become used to receiving timely information that specifically concerns the costs of renewal, which notably vary based on their circumstances. The fees related to a driver's licence vary depending on the number of demerit points accumulated, while that for registration is based, among others, on the vehicle's weight, its planned use and the place of residence of the owner. Furthermore, administration fees vary depending on whether the citizen pays his renewal at a service counter or by mail.

THE SAAQ AGREES TO REVIEW SOME OF ITS METHODS

CHANGE IN A CITIZEN'S HABITUAL FIRST NAME

Last year, subsequent to a complaint received, the Québec Ombudsman asked the SAAQ to clarify how it issued a new driver's licence when a citizen changed his or her first name to another one included on his or her birth certificate. The agency at the time had advised the citizen that he needed to first submit a change of name certificate. In this case, however, obtaining such a certificate is impossible, because the change in question is not a change of name per se, but simply a case of opting to use another name already included on a citizen's birth certificate.

The Québec Ombudsman received a copy of the new procedure in July 2006 and concluded that it seemed to abide by the legal provisions in this regard. Henceforth, a citizen in such a situation need only produce a copy of his or her birth certificate indicating the first name now used in order to change the name appearing on the driver's licence.

SUSPENSION OF ALL LICENCE CLASSES

In 2000, the Québec Ombudsman contacted the SAAQ after having received a number of complaints from citizens whose driver's licence had been suspended because they had failed to submit a medical report to maintain a professional class. Because they did not wish to renew the class in question, the citizens had not felt it necessary to respond to the SAAQ's request. Unaware that their licence had been fully suspended, they had then received fines for driving a vehicle that only required a regular driver's licence. The Québec Ombudsman feels that the provisions of the Highway Safety Code concerning requests for medical reports and the right to suspend a licence failing compliance do not entitle the SAAQ to suspend all licence classes, but rather, should only impact those classes for which said reports are necessary.

Following the Québec Ombudsman's involvement, the SAAQ had reviewed the letters it sent citizens in such cases, to make sure they clearly outlined the repercussions of not responding to its request. It did not, however, budge from its original position regarding licence suspensions, and continued suspending all licence classes whenever the holder of a professional class licence failed to submit the required medical report.

Seeing as it continued to receive complaints in this regard, the Québec Ombudsman once again communicated with the SAAQ on this issue. The agency initially refused to change how it applied the Code, claiming that a licence holder's refusal to submit a medical report, even if it only concerned professional classes, created reasonable doubt as to the citizen's overall health condition. The SAAQ also claimed that suspending only certain licence classes would be complex for citizens, who would have to go to a service centre to have their licence updated.

The Québec Ombudsman analyzed SAAQ statistics, concluding that the doubt regarding the overall health condition of citizens was unfounded in all but a few exceptional cases. Reasonable doubt could thus not be invoked as a rationale. Furthermore, the Québec Ombudsman is of the opinion that a licence suspension has greater repercussions for citizens than does the requirement of returning to a service centre for a licence update.

In 2006, the SAAQ complied with the Québec Ombudsman's requests, and reviewed its administrative procedures and computerized operations so that a missing medical report would only result in the suspension of professional licence classes. The provisions of the Highway Safety Code will also be made clearer in this regard. Until this review is completed, any citizen who files a complaint with the SAAQ or Québec Ombudsman will have his situation corrected.

DISSEMINATION OF INFORMATION

COMPENSATORY ABILITIES

Sections 83.1 and 191.1 of the Highway Safety Code grant the SAAQ the necessary authority to choose to deliver, or to not suspend, a driver's licence, even if a person has a medical condition that is incompatible with driving. This person may, however, prove that he or she has developed compensatory abilities that enable him or her to drive.

In 2004, subsequent to complaints from citizens whose licences had been suspended for medical reasons, the Québec Ombudsman had noted that the SAAQ did not notify all of the licence holders concerned of this discretionary power. The Québec Ombudsman had subsequently intervened, and the SAAQ had changed its policy for informing citizens of their right to request that their compensatory abilities be recognized when requesting a review of their licence.

Despite this seeming willingness to comply, complaints received in 2005 indicated that certain citizens likely to develop compensatory abilities had not been informed of the SAAQ's discretionary power in this regard. In 2004-2005, out of 5,000 suspended licences for medical reasons, only 350 licence holders had been informed of this option by the SAAQ. According to the agency, many of these suspensions involved persons with irreparable cognitive deficiencies or degenerative conditions for which it was impossible to develop compensatory skills. They had subsequently opted to not create false hope for these persons.

Following new action by the Québec Ombudsman in 2005, the SAAQ acknowledged that such an approach could prejudice certain persons who, against all expectations, could be apt to develop said compensatory abilities. It therefore decided to communicate its discretionary power in this area by producing a general brochure that it would include with notices of licence suspension for medical reasons. This brochure is nearly completed and should be available for distribution in late 2007.

DRIVING TESTS NECESSARY AFTER THREE OR MORE YEARS WITHOUT A LICENCE

Under the Highway Safety Code, a person who has not held a driver's licence for three or more years must pass a driving test and pay the related fees if he or she wishes to enjoy a licence. The SAAQ, however, was failing to advise citizens of this fact when their licences were suspended. Odd, given that a reminder in this regard could prove a powerful incentive for people to quickly settle any such matters, given that they could thus exert a certain control over the length of the suspension. The SAAQ agreed to further advertise this information. It also changed the message on its Web site in this regard and will consider the option of sending out payment notices.

THE QUÉBEC OMBUDSMAN GIVES ITS OPINION OF FOUR DRAFT REGULATIONS

THE INCREASE IN INSURANCE PREMIUMS: A DRAFT REGULATION THAT IS OVERLY VAGUE

The draft regulation amending *A Regulation respecting insurance contributions* mainly seeks to increase insurance contributions so as to improve the Fonds d'assurance automobile's financial situation. This fund, financed by insurance contributions, is destined to compensate road accident victims, and to promote highway safety and prevention.

At the time of the draft regulation's publication in March 2006, the Ombudsperson underscored the lack of precision of the document mentioned in the preamble. This document seeks to explain why increased contributions are necessary, while outlining the eventual effect of this fee hike on the financial situation of the Fonds d'assurance automobile. The Ombudsperson noted that citizens are entitled to information that is both detailed and accessible, given that they will be financially impacted by the proposed increase. In this regard, the Ombudsperson alluded to the lack of information on insurance contribution hikes after 2008, as well as the absence of details regarding how the mentioned deficit would be cleared.

The panel of experts mandated to analyze the draft regulation heard the arguments of citizens and various interest groups during a series of public hearings prior to filing its conclusions in June 2006. Among others, the panel of experts noted the lack of information regarding the two elements raised by the Québec Ombudsman. It did not, however, issue any recommendations in this regard. It did recommend that the deficit should become a priority as of 2007, adding that the proposed increased should be further spread out over time, and that citizens should have an option of paying licence and registration fees in six or twelve instalments.

SPREADING OUT OF PAYMENTS BENEFICIAL TO CITIZENS

Reiterating the recommendations of the panel of experts, the Minister of Transport in October 2006 tabled three draft regulations aiming to spread out the payments of licence and registration fees. These were the draft regulation amending the *Regulation respecting licences*, that amending the *Regulation respecting road vehicle registration*, and that amending the *Regulation respecting fees exigible under the Highway Safety Code and the return of confiscated objects* (draft regulation concerning fees).

In a letter to the Minister, the Ombudsperson stated her agreement with the principle of the announced measures, as these would allow for more equitably distributing the financial burden on citizens. She nonetheless made recommendations on two other aspects of the draft regulations, requesting:

- That the issuing of renewal notices be guaranteed under the regulation. In fact, the renewal of withdrawals will be automatic, and the SAAQ should thus be obliged to so notify citizens;
- That measures be developed to appropriately inform citizens subject to an interdiction that they are entitled to a refund of excess fees paid for their licence or registration.

The Québec Ombudsperson is continuing to exchange with the SAAQ on these matters.

List of Recommendations

List of Recommendations

RECOMMENDATIONS TO ALL DEPARTMENTS AND AGENCIES

REGARDING THE ADMINISTRATION'S EXERCISING OF DISCRETIONARY POWERS:

It is recommended:

That whenever the Government makes a decision calling for it to exercise its discretionary authority, it should be sufficiently reasoned so that its grounds can be well understood by the citizen. This will have the effect of keeping arbitrary decisions to a minimum, while ensuring respect for the principles of *An Act respecting administrative justice*;

That a person be designated "in charge" whenever more than one administrative unit is involved in a file. This person will be accountable for ensuring that actions are coordinated, and will serve as the primary contact in dealing with the client. Such a recommendation can easily be implemented under the existing legal framework.

RECOMMENDATIONS TO THE FOLLOWING DEPARTMENT AND AGENCIES:

The Ministère des Affaires municipales et des Régions

The Ministère du Développement durable, de l'Environnement et des Parcs

The Ministère des Ressources naturelles et de la Faune

The Ministère de la Sécurité publique

The Ministère des Transports du Québec

With regard to the implementation of the Governement risk prevention framework for the prevention of natural hazards, more specifically erosion of shores, and given that this issue involves various departments,

It is recommended:

That the coordination of all government actors be a priority at all times, given the scope and complexity of this issue;

That all actors adapt their ways of working and become actively involved, when appropriate and in a coordinated fashion, in seeking out concrete solutions and supporting the citizens affected;

That all the departments and agencies involved disclose, as soon as possible, the concrete actions they have planned, including methods for informing citizens;

That all the departments and agencies involved develop a work schedule with published deadlines;

That all other departments, organizations or bodies implicated in the file on an ad hoc basis act according to these standards.

THE MINISTÈRE DE LA JUSTICE

THE REVIEW OF SUPPORT PAYMENTS (CONSENT OF THE PARTIES)

It is recommended:

That the Civil Code and the Code of Civil Procedure be modified to relax the process for reviewing child support.

THE DIRECTEUR DE L'ÉTAT CIVIL

It is recommended:

That the Civil Code of Québec be amended so that a person born in Québec can ask the Directeur de l'état civil for a certificate of change of designation of sex even if he or she is no longer domiciled in Québec;

That it also be amended to take into account the traditions and customs of new immigrants and members of cultural communities with regard to patronymics upon registration of a birth in the register of civil status.

THE MINISTÈRE DES RESSOURCES NATURELLES ET DE LA FAUNE

COORDINATION AND STANDARDIZATION OF METHODS

It is recommended:

That whenever the Government makes a decision calling for it to exercise its discretionary authority, it should be sufficiently reasoned so that its grounds can be well understood by the citizen. This will have the effect of keeping arbitrary decisions or any semblance of arbitrary decisions to a minimum, while ensuring respect for the principles of *An Act respecting administrative justice*;

That a person be designated as "in charge" whenever more than one administrative unit is involved in a file. This person will be accountable for ensuring that actions are coordinated, and will serve as the primary contact in dealing with the client. Such a recommendation can easily be implemented under the existing legal framework.

REVENU QUÉBEC

TAXATION

Given that Revenu Québec attempts to follow up on letters from citizens, which often contain documents or receipts, within 35 days;

Given that documents or receipts are sometimes not entered in the file, entered but not sent to an agent, or not all sent to the area responsible,

It is recommended:

That Revenu Québec consider the possibility of reducing the 35-day time frame to follow up on letters from citizens;

That Revenu Québec review its processes to:

- Ensure that the documents and receipts received from citizens are properly examined and sent to each of the areas that must process them;
- Avoid asking citizens for new copies of documents or receipts that have already been sent.

THE COLLECTION OF SUPPORT PAYMENTS

It is recommended:

That with regard to the support payment collection system, the methods of reimbursement of amounts due to Revenu Québec take into account the needs of support payment creditors and adapt to individual situations.

THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

CIVIL PROTECTION

Erosion of the banks of the St. Lawrence

With regard to the implementation of the Governement risk prevention framework for the prevention of natural hazards, more specifically erosion of shores, and given that this issue involves various departments,

It is recommended:

That the coordination of government actors be a constant priority, given the scope and complexity of this issue;

That all actors adapt their ways of working and become actively involved, when appropriate and in a coordinated fashion, in seeking out concrete solutions and supporting the citizens affected;

That all the departments and agencies involved disclose, as soon as possible, the concrete actions they have planned, including methods for informing citizens;

That all the departments and agencies involved develop a work schedule with published deadlines;

That all other departments, organizations or bodies implicated in the file on an ad hoc basis act according to these standards.

CORRECTIONAL SERVICES

In view of the fact that knowledge of the profile and specific characteristics of the various categories of detainees is essential for making decisions and implementing adequate social reintegration measures,

It is recommended:

That the relevance and effectiveness of social reintegration measures for detainees taken during their detention and on their release be reassessed, taking into account more specific needs, particularly those related to improvement of health, prevention of violence, and reoffending;

That this reassessment be followed by the adoption of government orientations for the social reintegration of detainees, together with specific measures arising therefrom;

That the portrait of correctional services clientele, in particular the social and penal characteristics of detainees, be better documented from 2008-2009 and brought up to date thereafter.

In view of the fact that, while we welcome the announcements of renovations of penal infrastructures, we note that they will be insufficient to counter the negative aspects of overpopulation;

In view of the fact that hygiene and salubrity conditions in detention facilities require immediate attention,

It is recommended:

That the Ministère de la Sécurité publique work with the Ministère de la Santé et des Services sociaux to establish and implement without delay a plan to improve the salubrity of detention facilities, particularly from the standpoint of preventing disease and managing contamination risks;

That the Ministère de la Sécurité publique examine the layout of premises, in particular dormitory cells, so that basic conditions of living, dignity and respect for individuals are provided.

In view of the fact that, due to the growth in the number of inmates and the capacity of detention facilities, overpopulation has become an enduring situation;

In view of the negative impacts of the transfer of detainees on their social reintegration and the consequences for their families, and in order to limit this practice to urgent situations that cannot be dealt with in any other way;

In view of the fact that central management of transfers and releases for security purposes or as a result of overpopulation is a complex and demanding task,

It is recommended:

That correctional services acquire an integrated information management system that will facilitate the taking into account of all data relevant to management of transfers and releases;

That they ensure that practices are improved so as to avoid, or else minimize, the negative impacts of the transfer on health care received and on the social reintegration of detainees;

That correctional services take the measures necessary to enhance and tighten up existing practices for all foreseeable short-term transfer cases, including management of absences for court appearances and returns to facilities of origin.

MONITORING AND SUPERVISION OF INMATES

In view of the impacts of the role of correctional officers on the implementation of the Act and on the ability of facilities to carry out their entire mission,

It is recommended:

That the Ministère de la Sécurité publique establish a normal level of service for detention facilities in order to attain the objectives of the *Act respecting the Québec correctional system*, on the basis of the ratio between the number of a facility's full-time employees and the number of detainees;

That it assess the gap between this normal level of service required to attain the Act's objectives and the current level of service, and take whatever measures are required to implement the Act.

WAITS, DELAYS AND OMISSIONS IN ASSESSMENTS

In view of the fact that delays observed in completing assessments and developing correctional case management plans for inmates are of great concern because assessment is an important instrument in the implementation of the new act,

It is recommended:

That regular monitoring of assessment production times be carried out with the aim of ensuring that the right of detainees to be assessed in a timely manner is respected and preventing the adverse effects of delays in assessment on their social reintegration.

RÉGIE DES RENTES DU QUÉBEC

RETROACTIVE PENSION PAYMENTS IN THE EVENT OF A DECLARATORY JUDGMENT OF DEATH

It is recommended:

That *An Act respecting the Québec Pension Plan* be amended so it is in harmony with the Civil Code of Québec, to ensure that once the declaratory judgment of death is rendered, the Régie des rentes can pay the surviving spouse's or orphan's pension retroactively to the date determined by the court.

SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

MAINTAINING AND IMPROVING SERVICES

It is recommended:

That maintaining and improving services constitute formal criteria which the Société de l'assurance automobile du Québec must necessarily and systematically take into account during administrative decision-making and the implementation of measures for reducing operating costs.

SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

HARMONIZING ACTIVITIES WITH REGARD TO A SIMPLE CITIZEN

Given that under section 83.66 of the *Automobile Insurance Act* and section 449 of *An Act respecting industrial accidents and occupational diseases*, the Société de l'assurance automobile du Québec (SAAQ) and the Commission de la santé et de la sécurité du travail (CSST) have reached an agreement regarding processing files of injured parties who, while receiving an income replacement indemnity from the SAAQ or the CSST, experience a new incident that is not within the scope of responsibility of the agency providing compensation;

Given that the agreement between the SAAQ and the CSST does not cover all cases of citizens who have already received an income replacement indemnity from the SAAQ or the CSST and who experience a new incident that is within the scope of responsibility of the other system;

Given that harmonization problems arise between the SAAQ and CSST in the review of files and on decisions rendered;

Given that there can be unfair consequences of these situations for victims of injury,

It is recommended:

That the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail identify and implement appropriate short-term solutions to harmonize their activities with regard to a single citizen.

Health and Social Services 3

A transition year

Since April 1, 2006, the Ombudsman has been performing duties that were previously the responsibility of the Health and Social Services Ombudsman, in accordance with *An Act respecting the Health and Social Services Ombudsman.* Its jurisdiction now includes two distinct and complementary areas.

The Québec Ombudsman intervenes among departments and agencies that administer policies and programs of the health and social services network. Given the size of this network in Québec's public services, it pays particular attention to the Ministère de la Santé et des Services sociaux. By virtue of *An Act respecting the Health and Social Services Ombudsman*, it now has a direct window onto the impact of the services network on citizens, making it better able to establish a link between complaints from users and respect for the law in how policies and programs are applied. By virtue of this, it can adopt a proactive stance with the Department.

The entry into force of certain provisions of Bill 83, *An Act to amend the Act respecting health services and social services and other legislative provisions*, in April 2006, significantly altered responsibilities regarding the system for processing complaints about health and social services. As a result, the year 2006-2007 was a transitional year for the Department, network authorities and the Québec Ombudsman. This annual report will therefore address both the processing of complaints in accordance with An *Act respecting the Health and Social Services Ombudsman* and take stock of the implementation of measures to strengthen the system, the responsibility of which rests with the Ministère de la Santé et des Services sociaux.

The system for processing complaints must operate as effectively as possible to ensure that users' rights are respected. Therefore, before making its report on the processing of complaints related to health and social services, the Québec Ombudsman will first reiterate these rights, at the beginning of this chapter.

The report follows with an analysis of the implementation of the new complaints processing system for the year 2006-2007 and addresses the obligations of the Ministère de la Santé et de Services sociaux with regard to quality of service. It then addresses the results of its activities with regard to complaints and interventions by authorities or by mission and the specific problems related to heath and social services it was involved in over the last year.

Recommendations in this chapter are those made to the Department or to network authorities as part of our analysis and processing of complaints and reports. A number of problems raised in this report have also been the subject of recommendations to the Department. For these, we have noted the response to the recommendations.

The rights of users with regard to health and social services

Users of the health and social services network have rights granted to all citizens of Québec by the Charter of Human Rights and Freedoms and the Civil Code of Québec. These fundamental rights are:

the right to life and inviolability and the right to assistance;

the right to personal inviolability and freedom;

the right to respect and dignity;

the right to the respect for one's private life and the right to the non-disclosure of confidential information;

the right to freedom, including freedom of conscience, religion, opinion, expression, peaceful assembly and association;

the right to equality.

These give rise to the following specific rights, set out in the *Act respecting Health Services and Social Services*[1]:

the right to be informed about the services available and the conditions governing access to them (section 4);

the right to receive, with continuity and in a personalized and safe manner, services which are scientifically, humanly and socially appropriate (section 5);

the right to choose the professional or institution (section 6);

the right to receive required emergency care (section 7);

the right to be informed of any accident having occurred during the provision of services that has actual or potential consequences for one's state of health (section 8);

the right to be informed of one's state of health to be able to freely give informed consent regarding care (section 9);

the right to participate in any decision affecting one's state of health (section 10);

the right to be accompanied and assisted by the person of one's choice to obtain information or take steps in relation to any service provided (section 11);

the right to be represented in the exercise of a right (section 12);

the right to services in English (in keeping with the access developed regionally) (section 15);

the right to the confidentiality of one's record (section 19);

the right to access one's record (sections 17 to 28);

the right to recourse, to make a complaint, to be informed of the procedure for examining complaints and to be accompanied and assisted to do so (sections 33 and 34).

1/ R.S.Q., c S-4.2

The law, however, put certain limitations on these rights. Thus, the right to health services and social services and the right to choose the professional and the institution, as provided in sections 5 and 6, are exercised in keeping with the legislative and regulatory provisions relating to the organizational and operational structure of the institution and the human, material and financial resources at its disposal (section 13). The professional remains free to accept or decline to treat a person according to his ethical obligations, unless the person's life is in danger.

Health and Social Services

An Act respecting the Ministère de la santé et des services sociaux (R.S.Q., chapter M-19.2) entrusts the Minister with the command and administration of the Ministère de la Santé et des Services sociaux, as well as the application of the laws and regulations regarding health and social services.[1] The Minister's duties also include the development and tabling before the government of health and social services policies, and he is mandated to oversee their implementation, monitor their application and coordinate their execution.[2]

2006-2007 is the first year where the Québec Ombudsman has jurisdiction over both the Ministère de la Santé et des Services sociaux and the health and social services network. During her regional visits, the Ombudsperson reached certain conclusions regarding the Department, based on the complaints received, the investigations conducted by delegates, and various meetings and exchanges. The Québec Ombudsman deemed these observations worthy of being included in this report, i.e. the mobilization of managers necessary to successfully implement reforms, the gap between the text of policies and the services network's actual ability to meet requirements, the lack of a skilled labour force, and the qualitative monitoring of services.

During the various regional meetings held, health and social services network personnel apprised the Ombudsperson of the impact of the reforms and other planned changes on the mobilization of managers necessary to adapt to the changes. Managers consequently have less time to dedicate to daily program management, personnel supervision and the introduction of measures with a direct effect on users. One excellent example is the delays in implementing quality living environments in various CHSLDs, where staff members claim they are not receiving the needed support from management. As attested to by a number of complaints processed by the Québec Ombudsman, such delays have a definite impact on users. The Québec Ombudsman is cognizant of the requirements for managers of change-related activities but believes that overseeing services on a daily basis should remain their primary focus. Hence, the Québec Ombudsman urges the Department to promote conditions that will enable managers to fully fulfill their management responsibilities in times of change.

1/ Section 1.

2/ Section 2.

Another element worthy of note is the variation between Department policies and directions, and the system's ability to successfully implement them. Examples of this include the policy regarding mental health, the Department's approach to an improved quality of life for persons in CHSLDs, and the policy on palliative care. Persons who need services under the policy regarding home care or the program for adapting the home environment decry the delays in obtaining the necessary help and the fact that the services delivered are insufficient given the needs assessed. A review of complaints filed by users of the health and social services network reveals their numerous difficulties in obtaining services. Users wait to be seen by a professional, wait to get test results, wait to receive in-home services to avoid being hospitalized or otherwise accommodated, and wait to be admitted into an adequate accommodated environment. Being obliged to wait for such services is confounding and worrisome to users, who voice their frustration and concerns by complaining to the local or regional commissioner, or to the Québec Ombudsman. To limit such complaints, the population should be knowledgeable as to the degree of progress in the implementation of Department policies. Otherwise, they will expect them to correspond to their "reality." Users would no doubt welcome more specific information on the limits and delays of policy and program implementation.

Some of the complaints received by the Québec Ombudsman also address service quality. The Québec Ombudsman feels that ongoing improvement with regard to quality of services should be a key concern of managers and other actors in the health and social services network. In this regard, the Québec Ombudsman feels quality indicators should be further emphasized in the management agreements between the department, and health and social services agencies, as well as the management agreements between the latter and local bodies. This would facilitate reporting, much as would quantitative factors regarding the volume of services and the budget involved. Management follow-up with qualitative and quantitative elements would favour improved efficiency and ongoing improvements in service quality.

Control of service quality

Quality control is vital to the continued improvement of services to users. In light of the obligations of the Ministère de la Santé et des Services sociaux, in February and March 2007 the Québec Ombudsman analyzed the degree to which the strengthening measures of the complaints examination procedure have been implemented. It also took account of the central role of the watchdog committee.

THE DEPARTMENT'S OBLIGATIONS

An Act respecting health services and social services imposes monitoring and control obligations on the Department regarding the quality of care and services dispensed in the network. These imperatives are at the foundation of its mission, which is to "*maintain, improve and restore the health and welfare of Québec residents by making available to them an entire range of integrated, high-quality health and social services [...]*"[1]

To achieve this, the Department must in particular ensure that every institution seek certification of the health services and social services that it dispenses from recognized accreditation organizations every three years. It can request or authorize an inspection. Accordingly, the person mandated for this purpose may at any reasonable time enter any premises or any facility maintained by an institution to check whether activities requiring permits are carried on there.

In the absence of the required permits, the Minister may—after consulting the body concerned and after notifying the person who maintains such a facility of his decision, with the reasons for it—proceed to have persons accommodated there evacuated and transferred. He may also delegate to agencies the power to inspect, evacuate and transfer users to another resource. He has wide-ranging powers regarding the provisional administration of institutions, more commonly known as *trusteeship*.

The Minister may also take administrative measures. He can, for example, disqualify members of the board of directors or designate a controller to supervise the use of public funds by institutions and agencies. Lastly, the Act stipulates that the government can appoint a person to investigate any matter related to the quality of health services and social services, or to the administration, organization and operation of an institution or agency.

1/ Ministère de la Santé et des Services sociaux, *Rapport annuel de gestion 2005-2006*, p. 19.

COMPLAINT EXAMINATION PROCEDURE

The National Assembly has made respecting users' rights, and the quality of health services and social services a priority. This is why *An Act respecting health services and social services* was amended in 2005 by the adoption of Bill 83.[2] Various measures have been adopted for this purpose, including the setting up of watchdog committees to take primary responsibility for service quality on behalf of an institution's board of directors. This committee must ensure that complaints are given proper follow-up. The amendments to the Act also make the complaints and service quality commissioner responsible to the board of directors and make his or her function within the organization exclusive. Lastly, the responsibilities of the Health and Social Services Ombudsman are now exercised by the Québec Ombudsman, who reports to the National Assembly.

Some of these measures came into effect on April 1, 2006. As a result, 2006-2007 has been a year of transition during which institutions in the health and social services network had to implement the measures required to comply with the Act.

Although the primary aim of the complaint examination procedure is respect of users' rights, it is also a means of improving service quality. The strengthening of the status of local and regional complaints and service quality commissioners, as well as the full independence and impartiality arising out of the devolving of the Health and Social Services Ombudsman's powers to the Québec Ombudsman, demonstrate the government's intention to create conditions conducive to the success of the new procedure.

THE SURVEY

Certain findings arising out of its examination of user complaints, in the second stage of recourse, together with its work in the field, led the Québec Ombudsman to assess the status of the implementation of the new complaint examination procedure. It conducted a survey of the chairs of boards of directors of institutions, and of managers of complaints assistance and support centres. This survey made it possible to better document the actual status of the implementation. It was important for the Québec Ombudsman, whose primary mandate is to oversee the respect of users' rights, to ensure that the first level was working adequately, because its own effectiveness depends on this.

2/ *An Act to amend the Act respecting health services and social services and other legislative provisions*, 2005, chapter 32.

The survey[3] was conducted in February and March 2007. Out of 296 invitations to participate, 228 replies were obtained, giving a participation rate of 76%. The questions concerned:

- the appointment of the complaints and service quality commissioner;
- conditions of practice;
- the breakdown of commissioners' working time according to their main duties;
- the promotion of the complaint examination procedure;
- publication of the commissioner's identity and the second stage of recourse;
- the appointment of watchdog committee members.

Managers of complaints assistance and support centres were asked questions on substantially the same subjects. However, the respondents made a number of comments of a qualitative nature. The comments were varied and although they cannot be generalized, they can apply to several regions.

HIGHLIGHTS

Chairs of the boards of institutions

In summary, the survey of chairs of the boards of institutions reported delays in the hiring of complaints and service quality commissioners in 45% of institutions. The vast majority of commissioners hired are new in the position and have part-time status. They devoted an average of between 11 and 12 hours per week to this activity, and 41% of them are on contract. Half of the commissioners have responsibility for three or more facilities, the average being five or six facilities.

The procedure is promoted mainly through leaflets, posters and the Web sites of institutions. In addition, the great majority of institutions publish the identity and functions of commissioners and examining physicians. Information on the second stage of recourse is included in the acknowledgment of receipt of a complaint and in an information leaflet for the public. As of April 1, 2007, 91% of members of watchdog committees were to have been appointed.

3/ This survey was carried out by the firm of SOM.

Managers of complaints assistance and support centres

Seventy-five percent of respondents from complaints assistance and support centres reported delays in the hiring of local commissioners. According to 62.5% of them, these delays and the transitional context cause delays in the processing of complaints. Non-replacement of commissioners during absences and leave also seems to have contributed to lengthening the time taken to process complaints. Moreover, 81% of respondents stated that the part-time and on-contract status of commissioners, together with the fact that they are assigned to several facilities, create difficulties with regard to respect of rights, service quality and the availability of commissioners to carry out their duties other than dealing with complaints.

The lack of availability also has an effect on the ability of those involved in the procedure to consult with one other at the regional level. For respondents, the double duty—of a commissioner employed both by an institution and a health and social services agency—did not seem to create difficulties except with regard to the commissioner's accessibility and availability, which can be compromised.

To the question of whether the exclusiveness of their duties had a positive impact, 31.25% replied yes, 25% replied no and 43.75% replied that it had little impact. In this regard, comments by respondents indicate that the presence of the local commissioner in the institutions and his or her proximity to the institution's personnel and management can compromise his objectivity and impartiality, thereby undermining the procedure's credibility. In their view, the procedure's credibility is diminished by the three following factors:

- difficulties in gaining access to commissioners;
- claims by institutions that their inability to meet needs is the result of lack of available resources;
- the perception that the operational proximity to the institution's management and personnel compromises commissioners' independence.

Managers of complaints assistance and support centres also indicated that consultation, collaboration and communications with commissioners diminished over the course of 2006-2007. Despite the variety of information tools used to publicize the procedure, its promotion appears to be insufficient. Information on second-stage recourse, that is, recourse to the Québec Ombudsman, has not been systematically communicated to users. Lastly, in all cases, respondents stated that activities to promote the procedure were inadequate in their region.

BOTH GROUPS HAVE A SIMILAR READING OF THE SITUATION

Chairs of boards of directors, and managers of complaints assistance and support centres have a similar reading of the degree to which the procedure has been implemented and of its repercussions on respect of users' rights. Delays in the hiring of commissioners and the part-time availability of most of them caused hold-ups in the processing of complaints in 2006-2007. This limited availability of commissioners and the high number of facilities for which they are responsible suggest that they may not have time to accomplish all the duties with which they are entrusted. Although most commissioners are permanent employees, their part-time status and their high workload may increase the turnover rate of these employees. The majority of respondents in both groups felt that the exclusiveness of duties fostered objectivity and impartiality.

Although they indicate that reinforcement measures are being put in place, the survey results remaining worrying. Delays in the hiring of commissioners, and the appointment of watchdog committee members should be made up during the course of the year. On the other hand, the average time that commissioners have and the high number of institutions for which they are each responsible will have an impact on their accessibility, their capacity to accomplish all the functions assigned to them and, at the end of the day, the time taken to process complaints. The fact that most of them are part-time and that many are on contract means that a high turnover of commissioners can be expected, which risks compromising service continuity and quality. As for the promotion of the process, a concerted approach for the whole of Québec will be necessary to support local and regional action in this regard.

Moreover, a reading of the document *Lignes directrices relatives au comité de vigilance et de la qualité et au commissaire aux plaintes et à la qualité des services dans les agences de la santé et des services sociaux* [Guidelines regarding watchdog committees and complaints and service quality commissioners in health and social services agencies] reveals that the Department has not recommended a minimum staffing levels for commissioners and has not set a budget in this regard. If even these minimum parameters are not specified, in a context of scarcity of resources, it seems unlikely that the process as a whole can attain the necessary equilibrium to ensure diligent, high-quality processing of all complaints received.

SUPPORT AND CONCERNS

The Québec Ombudsman notes the activities that have been completed or are planned by the Ministère de la Santé et des Services sociaux in order to put the first-stage complaints procedure into practice. It can only support the current initiatives and encourage their diligent implementation. However, it remains concerned about the effects of commissioners' lack of availability on their ability to meet the demand for services from users and to carry out all their duties. In this regard, it is of the opinion that equity in access to the procedure and in the handling of complaints, regardless of region or institution, is not guaranteed.

MEASURES ARE NEEDED TO SPEED UP IMPLEMENTATION OF THE PROCEDURE

In light of the results of the recent analysis of the implementation of the complaint examination procedure, the Québec Ombudsman considers that the Ministère de la Santé et des Services sociaux must take measures to ensure that this operation is finalized as soon as possible. The measures are threefold:

- local and regional complaints and service quality commissioners must be able to perform all their duties as provided by the Act, including dealing with complaints and notifications, as well as the promotion of users' rights and of the complaint examination procedure;
- the ability of local and regional commissioners to the deal with complaints within the established times must be strengthened;
- information provided to the public regarding the complaint examination procedure and the rights of health services and social services users should be improved and intensified.

THE CENTRAL ROLE OF THE WATCHDOG COMMITTEE

The primary mandate that the government entrusts to the watchdog committee is that of ensuring that the recommendations of the complaints and service quality commissioner, and those of the Québec Ombudsman, are followed up. The Act stipulates that the committee must analyze recommendations and reports submitted to the board of directors, which mainly focus on the quality, safety and effectiveness of services rendered and on the respect of users' rights. The watchdog committee must in turn make recommendations to the board of directors regarding action to be taken on these matters.

In May 2006, as part of the implementation of the Act, the Department issued guidelines specifying the responsibilities of the watchdog committee and those of the complaints and service quality commissioner.[4] The role that the committee is called upon to play is crucial in guaranteeing the respect of users' rights to quality care and services.

In particular, the committee must examine and assess:

- the functioning of existing mechanisms (users' and residents' committee, council of physicians, dentists and pharmacists, council of nurses, multidisciplinary council, risk management committee, subcommittee on nosocomial infections, clinical ethics committee, research ethics committee, midwives council);
- the number and nature of complaints received and processed;
- the number and nature of problem situations and interventions performed;
- the conditions of practice in which the complaints and service quality commissioner works;
- activities to promote users' rights;
- the conciliation report;
- the work of the examining physician or the review committee;
- the nature of complaints referred to the council of physicians, dentists and pharmacists.

The committee must also check the follow-up accorded to:

- certification reports;
- quality assessment visits to institutions;
- recommendations of the Public Curator and coroner;
- recommendations of the external auditor relating to quality;
- reports on the quality of services provided by a laboratory;
- reports on inspection visits from a professional order;
- operating reports on the prevention and control of nosocomial infections.

Further to the survey it conducted, the Québec Ombudsman has found that only 70% of watchdog committees were in place by mid March 2007. With the Department, it will monitor developments in this implementation very closely.

4/ Ministère de la Santé et des Services sociaux, Direction de la qualité, *Lignes directrices relatives au comité de vigilance et de la qualité et au commissaire aux plaintes et à la qualité des services dans les agences de la santé et des services sociaux*, Québec City, May 2006, 21 pages.

PRIVATE CARE FACILITIES

In Québec there are a number of private facilities that provide care and services to various categories of clienteles, and which, in principle, function as a complement to the public health and social services and network.[5] In this regard, the holding of a permit is fundamental. Anybody wishing to operate an institution that fulfills any of the missions described in the Act must hold a permit, failing which he or she will be fined and have residents in his or her care transferred to another facility.

Under a regulation, private care facilities for the elderly are now required to obtain a compliance certificate. Private organizations providing services to persons addicted to drugs or alcohol, on the other hand, submit—on a voluntary basis—to a normative certification framework.[6]

PRIVATE CARE FACILITIES FOR THE ELDERLY

The compliance certificate that residences for the elderly must hold represents, in principle, a guarantee of the quality of services provided there. The *Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly*[7] came into force on February 1, 2007. Under the transitional provisions set out in Bill 83, proprietors of such residences have two years to complete the certification procedure. The manager of the residence must produce an annual declaration for registration in the register of residences for the elderly. The complaint examination procedure applies fully to these residences, as do the intervention powers of the Québec Ombudsman. Controls—certification *a priori*, agencies and the Québec Ombudsman a posteriori—now provide supervision of these resources.

5/ In 2005-2006, the Department reported that there were 2,440 private residences with services for the elderly. *Rapport annuel de gestion 2005-2006*, supra, note 2, p. 21.

6/ This refers exclusively to the rules dealing with health and social services aspects, and excludes any other normative framework, for example, that relating to the Building Code of the *Public Buildings Safety Act*.

7/ *Gazette officielle du Québec*, partie II, January 10, 2007, pp. 89-92.

The *Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly*

In December 2006, the Québec Ombudsman submitted to the Minister its comments on the draft *Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly*. It pointed out the significant progress that the proposed framework represents for the respect of the elderly and protection of their rights, notably by introducing minimum standards to be met when accommodating these users, who are often vulnerable and isolated. The Québec Ombudsman did however identify certain worrying elements. It therefore suggested some additions and amendments. Its proposals centred on three main themes: prevention of abuse, monitoring of compliance, and permitted activities.

With regard to the prevention of abuse, the Québec Ombudsman asked the Minister to add a provision prohibiting donations and legacies made by a user to the administrator or an employee of a private residence for the elderly, unless the beneficiary is the donor's spouse or close relative. It also proposed including a provision that obliges the operator to meet the standards of the Régie du logement, by using the appendix of its lease, and to make this a condition of compliance for the residence. Moreover, according to the Québec Ombudsman, a residents' right to choose the caregiver from whom he or she will receive care and services, with respect for his or her privacy and autonomy, must be reasserted. In the same spirit, disclosure of information concerning the user's condition to those close to him or her must be re-centred on the express consent of the user or his or her mandatary.

With regard to monitoring of compliance, the Québec Ombudsman suggested that the draft regulation should specify the frequency of inspections by health and social services agencies. In addition, it felt that an attestation of compliance with the standards of the *Food Products Act* and the *Public Buildings Safety Act*, and also with municipal regulations, should be a prerequisite for the granting of certification to the residence.

Moreover, the Québec Ombudsman proposed that the regulation should limit activities permitted in private residences by clearly excluding activities that fall within the ambit of residential and long-term care centres (CHSLD). Lastly, it emphasized to the Minister that the regulation should contain criteria for defining an emergency situation that could lead to the use of restraint. An analysis of the regulation as adopted reveals that some of the recommendations of the Québec Ombudsman were disregarded.

PRIVATE RESOURCES FOR VULNERABLE PERSONS

In the course of its study of Bill 83, the Québec Ombudsman called for private residences and resources that accommodate clienteles other than the elderly to be subject to the application of the complaints examination procedure. It referred in particular to drug-addicted persons and those suffering from mental health problems. The vulnerability of persons accommodated in this type of resource necessitates the same protection as that granted to the elderly. All private residences that wish to accommodate persons with particular needs, including care, and who receive persons referred by the health and social services network, should hold certification.

This proposal was rejected, on grounds of the limits of State interventions in the private sphere. However, the Act was amended to the effect that actors in the health and social services network must make sure, when they direct a user to one of these resources, that the resource provides high-quality services. Nevertheless, the situation of people who are referred to resources of this type remains a matter of concern. In the absence of specific provisions, the monitoring carried out by the Department and agencies of resources that receive these vulnerable clienteles is based on general provisions for the health and security of persons. Should the resource fail to cooperate, the agency is as powerless as the users themselves.

The fact that the complaint examination procedure does not apply and that the Québec Ombudsman cannot intervene in private residences and resources for clienteles other than the elderly has the effect of creating various user categories. All do not receive the same consideration. Although their vulnerability is often comparable with the elderly, persons suffering from mental health problems, intellectual disabilities, alcoholism or drug addiction, for example, do not enjoy the same rights and the same protection as the elderly.

Certification of private residences for the elderly has provided this clientele with living conditions in a better defined framework and subject to minimum standards. Other clienteles do not enjoy this attestation of quality. If living conditions and services provided to these vulnerable persons are inadequate, which logically may arise more readily in an environment not subject to standards, the Québec Ombudsman cannot intervene. It is highly paradoxical that the means available to control these resources are fewer, because they do not hold an attestation of quality.

An example: a private resource for alcoholics and drug addicts

The Agence de la santé et des services sociaux de Montréal informed the Québec Ombudsman that two persons were complaining of the quality of care and services in a private facility. They alleged that medical follow-up was insufficient, and that blank medication prescriptions were signed by a physician and filled out by the proprietor, who in this way built up reserves of medication. According to what was reported, the proprietor herself decided on the medication to be administered. The competence of actors and the cleanliness of the premises were also at issue.

The Québec Ombudsman asked the municipal inspection department to check the salubrity of the premises. It also delegated a member of its staff, but the latter was refused access to the premises on account of the Québec Ombudsman's having no jurisdiction over residences of this type.

In response to this, the Québec Ombudsman requested that the Agence use its own powers of inspection to check whether the resource was illegally carrying out activities that are the responsibility of an institution.

In the absence of jurisdiction over private resources not holding a permit, but remaining concerned at the fate of drug addicts accommodated in this resource, the Québec Ombudsman informed the Minister of the situation, since the Agence considered itself unable to act on its own initiative. At the express request of the Minister, the Agence took steps.

This example clearly illustrates that the attitude of the resource frustrated all the systems designed to protect users and ensure that their rights are respected. Moreover, it is abnormal to have to have the Minister intervene in order for the Agence to be able to use its own powers of inspection.

The Québec Ombudsman is still of the opinion that private residences and resources that receive vulnerable clienteles other than the elderly—including drug addicts, alcoholics and vagrants—should be subject to the application of the complaint examination procedure provided for in *An Act respecting health services and social services*.

Establishments

Bodies according to mission

This section presents the Québec Ombudsman's activities, examples of complaints and recommendations according to the different missions of institutions and facilities. The missions are presented in the following order: hospital centres, local community service centres, residential and long-term care centres, youth centres, rehabilitation centres and other bodies.

PIECES ON THE CHESSBOARD HAVE BEEN MOVED

As part of the reform begun in 2003 with Bill 83, *An Act to amend the Act respecting social services and other legislative provisions*, most hospital centres have been integrated to health and social service centres, a local body that coordinates services offered by the main players in a given local health and social services network. The objective of this reform is to reorganize services to bring them closer to the public and to ensure the continuity of the network. The mission of hospital centres is now part of the continuum of services that includes local community service centres (CLSCs) and residential and long-term care centres in a given region.

COMPLAINTS REVIEWED BY THE QUÉBEC OMBUDSMAN

In 2006-2007, the Québec Ombudsman reviewed 124 complaints about hospital centres. As in years past, hospital centres still generate the most complaints within the health and social services network, this year with 180, or 36% of all complaints reviewed by the Québec Ombudsman.

The following table shows the breakdown of grounds for complaint reviewed by category and the number of corrective measures developed for each.

Results of the Review of Grounds for Complaint

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Access to treatment and services	27	18	9	14
Clinical and professional aspects of treatment and services	38	20	18	28
Individual rights	26	15	11	16
Financial aspects	40	27	13	23
Interpersonal relations	19	8	11	12
Physical environment and resources	30	18	12	23
Total	**180**	**106**	**74**	**116**

* Excluding complaints whose processing was interrupted

Of the 180 grounds for complaint examined, 74 were substantiated. These led to the development of 116 corrective measures.

Financial aspects represented 22.2% of grounds for complaint. Clinical and professional aspects came next with 21.1% of grounds for complaint, followed by the physical environment and resources at 16.7%. Access to treatment and services and individual rights accounted for 15% and 14.4% of grounds respectively, while grounds related to interpersonal relations accounted for 10.6%.

FINANCIAL ASPECTS

In 2006-2007, the Québec Ombudsman examined 40 complaints related to financial matters, 13 of which were substantiated. These complaints related to payments for accommodations, room fees, ambulance transport and parking fees, for example. Claims related to theft or the loss of personal property, such as dental prostheses or glasses, also fall into this category.

Once again this year, the most common complaints in this category related to fees for private or semi-private rooms, including rooms in intensive care, as designated by the board of directors. These complaints accounted for 47.5% of the total (19 out of 40). In reference to the *Politique de déplacement des usagers du réseau de la santé et des services sociaux pour la population en général*, complaints regarding fees charged for the transport of users accounted for 25% of all complaints (10 out of 40). Finally, complaints regarding reimbursements for the replacement of lost personal property accounted for 17.5% (7 out of 40) of complaints in this category.

CLINICAL AND PROFESSIONAL ASPECTS OF TREATMENT AND SERVICES

Aside from continuity of service, this category includes complaints regarding knowledge, know-how and standards of practice. During 2006-2007, 38 complaints were reviewed, 18 of which were substantiated.

Within this category, 28.9% (11 out of 38) of complaints had to do with the administration of medication, physical care or custodial care and 7.9% (3 out of 38) dealt with the unjustified use, and even the abuse, of measures to place people under control, including restraints and isolation, in the emergency room and in patient care units. Problems related to professional evaluation or judgment, including in the assignment of priority codes by

triage nursing staff in the emergency room, accounted for 10.5% (4 out of 38) of complaints. The technical and professional skills of nursing staff and social workers, for example inadequate technique in changing a dressing, resulted in 13.2% (5 out of 38) of complaints in this category. Furthermore, 5.3% (2 out of 38) of complaints related to the failure to respect conditions for preventive confinement, in violation of *An Act respecting the protection of persons whose mental state presents a danger to themselves or to others*. Inadequate control measures for *Clostridium difficile* and the failure of staff to apply measures to prevent nosocomial infections were the source of 7.9% (3 out of 38) of complaints.

THE PHYSICAL ENVIRONMENT AND RESOURCES

This category includes complaints about the physical environment in which treatment and services are provided, for example, the layout of space, food, security, hygiene, facilities and equipment. In 2006-2007, out of the 30 complaints reviewed, 12 were substantiated.

In this category, 30% (9 out of 30) of complaints related to rules and procedures, such as visiting hours and rights and restrictions on the number of visitors. Complaints regarding personal safety and the risk of falling came next at 13.3% (4 out of 30), followed by complaints regarding the hygiene and cleanliness of facilities, at 16.7% (5 out of 30). The application of the tobacco use policy, specifically in psychiatric units, generated 10% of complaints (3 out of 30). Dissatisfaction related to room temperature and disruptions from call bells accounted for 13.3% (4 out of 30) of complaints. Few complaints received related to the quality of the food, problems regarding the mix of client groups and the lack of equipment (patient lifts).

ACCESS TO SERVICES

This category includes complaints regarding structural problems that limit access to services, such as waiting times or the lack of access to services. In 2006-2007, 27 complaints were reviewed and 9 were substantiated.

Waiting times account for 63% (17 out of 27) of these complaints. These are primarily waiting times in the emergency room or for an appointment, a consultation, diagnostic tests, treatment or access to specialized rehabilitation services. Refusal to provide services accounted for 18.5% (5 out of 27) of complaints, while the failure of institutions to respect free choice accounted for 7.4% (2 out of 27) of the complaints in this category.

The Québec Ombudsman reviewed complaints related to very long waiting times, in particular for a consultation of orthopaedic surgery. In one case, the waiting time was two years.

INDIVIDUAL RIGHTS

This category includes complaints regarding the failure to respect the rights of users under *An Act respecting health services and social services*. In 2006-2007, 26 complaints in this category were reviewed, 11 of which were substantiated.

The difficulties users face in exercising their right to lodge a complaint—as part of the complaint review system—ranked first this year and accounted for 38.5% (10 out of 26) of complaints in this category. This was closely followed, at 30.8 % (8 out of 26), by complaints regarding the failure to respect the confidentiality of information in a user's file and difficulties accessing a file. Complaints regarding a lack of information about treatment, in particular in terms of preventive confinement, accounted for 11.5% (3 out of 26). Furthermore, complaints regarding the failure to respect a user's refusal of treatment, a blood sample or a urine test accounted for 11.5% (3 out of 36).

This category also included complaints regarding rights to recourse with a local or regional service quality and complaints commissioner, a medical examiner and the review committee. It also included difficulties faced by users in exercising their right of recourse before judicial or administrative tribunals.

INTERPERSONAL RELATIONS

This category includes complaints about the interpersonal skills of representatives and staff members who provide care and services, in other words their attitudes and behaviour toward users and the way they interact with them. In 2006-2007, 19 complaints of this nature were reviewed, 11 of which were substantiated.

Disrespect toward users and verbal abuse were the main sources of dissatisfaction in this category, accounting for 31.6% (6 out of 19) of complaints. A similar proportion of complainants pointed to a lack of respect for the dignity of users 21% (4 out of 19) and a lack of empathy 26% (5 out of 19). Finally, one complaint raised the importance of being able to clearly identify the staff member providing treatment.

Local Community Service Centres

The mission of local community service centres (CLSC) is to offer basic front-line health and social services. They also have the mandate to provide the population within the territory they serve with preventive or curative health and social services and rehabilitation and reintegration services. In particular CLSCs are responsible for organizing home-support services.

HOME SUPPORT

This section of the annual report is devoted to problems regarding the application of the *Politique de soutien à domicile*. In fact, most complaints the Québec Ombudsman receives about CLSCs are about this aspect of their mission.

THE GAP BETWEEN NEEDS AND RESOURCES

The *Politique de soutien à domicile* of the Ministère de la Santé et des Services sociaux was published in 2003. It establishes that home is always the first option to consider and that priority must be given to the individual's choices. It recognizes the status of the informal caregiver and ties the services offered to a philosophy of action.

Since the adoption of the first policy in 1979, needs have grown faster than resources. As a result, the ability to respond to demand is always lagging behind the means available to the health and social services network. The effects of this gap between needs and resources were obvious in the 1993-1994 and 2000-2001 reports of Québec's Auditor General. Furthermore, a study by the Canadian Institute for Health Information published in March 2007 revealed that Québec is one of the Canadian provinces that devotes the least resources per capita to home support services.

Concretely, this results in problems of equity in access to services, forcing users to overuse other health system resources. Often, even if the user's needs assessment is done properly and the intervention plan is appropriate, managers are forced to offer fewer services, which can compromise achieving the objectives of the plan.

Also, home support teams must place priority on people returning home after a hospital stay. They have to deal with new client groups, such as seniors in private residences and certain users of non-institutional resources. Finally, home support services now include basic rehabilitation services, including physiotherapy, occupational therapy, speech therapy, audiology and others.

In the *Politique de soutien à domicile*, the Department lists the resources and means that can contribute to the services offered to users. Under certain conditions, the CLSC can refer people who need help at home or personal assistance to social economy enterprises. And in the same spirit, the *Chèque emploi service* direct allowance allows people who are eligible to hire a worker on their own. Community organizations and volunteer groups can offer civic support, home delivery of meals, guidance, transportation, friendly visits and other activities that are part of home support. Informal caregivers, who the policy defines as both clients and partners, are asked to get more involved, often without the necessary support.

The Québec Ombudsman believes that home support programs should have the resources necessary so that all citizens have access to quality services, in sufficient quantity and offered by the most appropriate resource. In the same way, it believes that informal caregivers should have adequate support. And yet, it has noted that this is not the case, because demand for services often exceeds supply. The Québec Ombudsman believes that the system loses flexibility as a result. A portion of users adapt to fewer services or repeatedly have to wait. This situation results in a great deal of dissatisfaction among the public and the different organizations.

COMPLAINTS REVIEWED BY THE QUÉBEC OMBUDSMAN

In 2006-2007, the Québec Ombudsman examined 71 complaints regarding CLSCs. There were 100 different grounds for these complaints.

The following table shows the breakdown of grounds for complaint examined by category, and for each category, the number of corrective measures developed. This data covers complaints and corrective measures in CLSCs, however, the large majority of complaints were regarding the home-support program.

Results of the Review of Grounds for Complaint

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Access to treatment and services	22	14	8	12
Clinical and professional aspects of treatment and services	31	13	18	30
Individual rights	13	9	4	4
Financial aspects	16	13	3	3
Interpersonal relations	12	8	4	4
Physical environment and resources	6	3	3	2
Total	**100**	**60**	**40**	**55**

* Excluding complaints whose processing was interrupted

The examination of 100 grounds for complaint gave rise to corrective measures in 40% of cases, for a total of 55 measures. Of all of these measures, 60% were recommendations of the Québec Ombudsman and 40% were commitments from institutions to correct the situation.

Thirty-one per cent of grounds for complaint against CLSCs fell into the clinical and professional aspects of treatment and services category. Access was at the root of 22% of grounds for complaint, mainly to do with waiting times for assessment. The financial aspects came third, with complaints having to do mainly with billing for certain services, such as the increase in parking fees.

No relief for an informal caregiver

The doctor of a man who suffered a cerebral hemorrhage believed that the man could go home, after a stay in a rehabilitation centre. He felt that he would make more progress at home. His spouse agreed to act as the informal caregiver. The rehabilitation centre assessed the patient's needs and asked the CLSC to provide him with 25 hours per week of care. This request was refused, without the spouse's needs being assessed. The CLSC maintained that it was not able to finance these services and placed the user on a waiting list. Not being able to count on the custodial care service, the woman asked for leave for an indeterminate period from her employer and received it. She complained to the Québec Ombudsman.

The Québec Ombudsman noted that the woman made the decision to act as the caregiver for her spouse based on information about custodial care services that did not come through. It criticized the impact of this refusal on her professional life and finances.

The CLSC claimed that budgetary constraints required it to review who it provides services to and to be stringent in its application of the measures set out in *Politique régionale de soutien à domicile*.

On the one hand, as is often the case, new users are added to the list of people seeking services and their condition requires more than that. On the other hand, the fact that hospitals have reduced stays involves a major commitment from CLSCs in the region, because they provide services to people who return home. These factors have put additional pressure on their budgets. In this case, the result led to in a budgetary deficit for the CLSC's home support programs.

In light of this file, the Québec Ombudsman concluded that in spite of efforts in recent years to increase financing for home services, the resources are still insufficient. As well, their distribution among regions is still unequal. The services offered depend on the financial opportunities of the institution. Because the public they serve have many needs, CLSCs must make choices and try to distribute their services equitably.

The right priorities, but too few resources

A woman complained to the Québec Ombudsman regarding the lack of access to home support services and more specifically to housekeeping services. The woman received three hours of free housekeeping services per month through a social economy enterprise, and the services were financed by the CLSC that served her area. After moving, she had to deal with another CLSC, which assessed her need for housekeeping services at four hours per month, or two hours every two weeks. Her name was placed on a waiting list for these services, and she would have to pay a portion of the costs. The social economy enterprise would not make the trip to her home for a two-hour period, but only for three consecutive hours. The woman asked the Québec Ombudsman to intervene so that she would have free services again, in accordance with her service plan.

Examining the file shed light on the fact that the CLSC's financial resources do not allow it to respond to all of its clients' needs within its territory. The Québec Ombudsman learned that, in this case, the institution had implemented a prioritization system for home-support services. This system is based on an assessment of the consequences of no intervention for the person in question and for those close to them. Thus, a level of urgency is assigned based on the nature of the prejudice the person will suffer. The assessment of this woman's situation and needs showed "prejudice in the medium term."

The CLSC waiting list takes into account the priority level and the date of the request. When the budget allows, services will be provided according to the level of urgency and the age of the request. The CLSC told the Québec Ombudsman that it is not possible to specify a waiting time, because several factors are beyond its control.

An Act respecting health services and social services provides that the user's right to services be exercised within the framework of the human, physical and financial resources of the institution. Sometimes the services allotted are a compromise between real needs and resources available at the CLSC or in the community.

The Québec Ombudsman concluded that in establishing priorities in its service offer, the CLSC is demonstrating concern for equity with regard to its client groups. Furthermore, the analysis of this complaint showed that social economy enterprises have differing criteria and practices.

The difficulties of long-term care

The mother of a seriously disabled child complained to the Québec Ombudsman. Her 11-year-old child, who has many serious health problems as a result of meningitis contracted at an early age, is totally dependent on those around him for feeding and care.

The parents wanted to offer the child the best quality of life possible and decided to see to his well-being at home. Both were committed to the child, as was the extended family. The woman had lost her job just when the child was to undergo an operation on his spinal column. She had not worked outside of the home since then, which considerably reduced the family's income. When she filed her complaint, the woman was facing health problems and exhaustion. She nonetheless planned to return to the job market in the months that followed.

In order to meet her responsibilities to her child, the mother asked for the support of her regional CLSC in 1999. Since that date, she confirms having stepped up measures to obtain the various services she and her child were entitled to. In April 2003, needs were evaluated at 28 hours of service per week. The institution, claiming insufficient budget, was providing five hours of services. It then increased services to ten hours, coming closer to what should have been provided from the beginning. For some time now, since she submitted her complaint to the Québec Ombudsman, the Centre de santé et de services sociaux, through the CLSC, has offered her 18 hours of assistance services for daily activities, which answers to some of the needs identified by the institution. Having opted for the direct allocation and payment by *Chèque emploi* service, the woman is managing the hiring and supervision of paid employees and volunteers herself.

Furthermore, the family receives financial aid for respite care and babysitting as well as for the purchase of diapers. She also benefits from equipment loans: a patient lift, a bath stretcher and an articulated bed. The child receives occupational therapy and the house was adapted to his needs. The woman had to make constant efforts in order to obtain each of these services.

Aside from these services, the parents personally spend $8,000 per year for private services, and the family is heavily solicited to support them in their parenting. However, their financial and human resources are dwindling.

The mother claims to have received little information from the institution regarding available measures. She has also noted difficulties resulting from many changes in personnel since 2002. However, she recognizes the professionalism of the people she communicates with and wants to maintain a positive relationship with them.

The Québec Ombudsman is critical of the fact that the woman has had to constantly nag to obtain the services her family needs. While it notes that the institution does not have the means necessary to respond to all the requests of the parents and the child, it made the necessary recommendations.

SUPPORTING THE PUBLIC WITHOUT CREATING INEQUITY

The statements of the Québec Ombudsman echo those of the Auditor General regarding the results of the study of the Canadian Institute for Health Information and the opinions of institutions and researchers. Situations called to its attention confirm that the government must pursue its efforts to improve home support services. While large amounts were devoted over the last decade, resources are still cruelly lacking. The current policy does not offer all the means to support the public without creating problems of inequity among individuals, groups and regions. Given the harm caused by chronic under-funding of these services, the Québec Ombudsman would like the Department to improve the concordance between the *Politique de soutien à domicile* and the availability of services.

In this respect, the Department could remind the health and social services network of the need to use the means required to ensure this concordance. These would include the improvement of processes and practices, the development of tools for better clinical management, the development of networking in the network and budgetary optimization.

Residential and long-term care centres

A HIGH-QUALITY LIVING ENVIRONMENT FOR RESIDENTS

Residential and long-term care centres (CHSLD) provide specialized accommodation and a substitute living environment. They dispense assistance, support and surveillance services. They must also provide their residents with psychosocial, nursing, pharmaceutical, medical and rehabilitation services.

The increased availability of home-care services designed to maintain people in their natural living environment as far as possible has changed the characteristics and the needs of the clientele admitted to residential and long-term care centres. In general, residents spend less time there than previously, and a greater number of them die there. Accommodation in an institutional living environment is increasingly reserved for people having complex pathologies and requiring a higher level of care during their stay. Above all, however, this type of facility remains a residence, a living environment.

MINISTERIAL ORIENTATIONS

Ministerial orientations set out in the document *Un milieu de vie de qualité pour les personnes hébergées en CHSLD* [a quality living environment for CHSLD residents] were published in 2003. This publication sets out actions which, without constituting conditions absolutely essential for success, facilitate the implementation and use of an approach suitable for persons living in a residential and long-term care environment. This document specifies that

> The range of care and services offered to residents must be aimed not only at answering their physical and psycho-social health problems, but also at helping to support the creation of a true living environment for residents. Consequently, all persons employed by an institution offering residential services must, through their dealings with residents and those close to them and through the role they play with regard to familiar places and objects, contribute to nourishing and enriching the substitute living environment. As a result of the institution's openness to the community, family and volunteers will also gravitate towards the elderly resident. Consequently, members of staff responsible for nutrition, laundry and maintenance of the facilities must, in harmony with the actions of nurses, middle managers, rehabilitation therapists, attendants, dieticians, and all other actors who deal with residents, act in such a way as to ensure residents' welfare and foster optimal use of their capacities.

With regard to clinical services, residential facilities must be able to guarantee residents' daily welfare. As for services that are required intermittently or that call on disciplines that are rare or subject to shortages, other methods must be developed in order to provide access to the services to residents when the need arises.[1]

[Translation]

INTEGRATING CHSLDS INTO HEALTH AND SOCIAL SERVICES CENTRES (CSSSs)

An Act respecting local health and social services network development agencies came into force on January 30, 2004, following the adoption of Bill 25. The new act integrated public CHSLDs into health and social services centres (CSSSs) set up by local health and social services network development agencies. This integration required each CSSS to adopt organization plans that took the new reality into account. CSSS management personnel, in addition to providing daily management of services, had to take part in defining clinical projects and in developing their local health and social services networks. In some cases, this has had the effect of reducing their availability and making them less accessible to teams and to staff in general. This lack of availability has also had an impact on the time required to implement the living environment project.

QUALITY ASSESSMENT VISITS

In fall 2003, the MSSS called for visits to CHSLDs to assess the living environment and services provided to persons living in these institutions. The Minister intended this initiative to identify solutions that contribute to the provision of a quality living environment and to provide a clearer understanding of problems shared by a number of CHSLDs.[2] An initial report, published in June 2004, outlined the situation observed in 47 public CHSLDs. A number of items in this report caught the attention of the Québec Ombudsman, including the following:

1/ Ministère de la Santé et des Services sociaux, *Un milieu de vie de qualité pour les personnes hébergées en CHSLD, visites d'appréciation de la qualité*, Québec City, June 2004, p. 14-15.

2/ *Ibid*, page vii.

There are marked differences between institutions. In similar conditions and with more or less equivalent constraints, some succeed better than others in integrating the "living environment" concept into the daily routine and manage to provide a more human environment for residents.

Institutions' strategic plans and management agreements reached with local service networks pay little attention to expectations and objectives aimed at providing residents with a high-quality living environment.

Quality assessment visits also revealed that the obsolescence of—and architectural barriers in—many facilities have a negative impact on residents' autonomy, privacy, socialization, safety, identity and dignity. The situation is also mirrored in an analysis of complaints submitted to the Québec Ombudsman.

Involvement of family members and close relatives in the life of residents does not take the same form and is not interpreted in the same manner by all. Thus, from one CHSLD to another, the nature and degree of their involvement varies. The variation is more the result of the practices of each institution than of an orientation that recognizes and encourages this collaboration. In most cases, residents and their families say they were not involved in developing and periodically revising the individual intervention plan, despite the fact that the Act calls for this.

COMPLAINTS REVIEWED BY THE QUÉBEC OMBUDSMAN

In 2006-2007, citizens submitted 31 complaints relating to residential and long-term care centres to the Québec Ombudsman.

The following table divides the reasons for complaints into categories and indicates the number of corrective measures formulated in each category.

Results of the Review of Grounds for Complaint

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Accessibility of care and services	6	2	4	4
Clinical and professional aspects of care and services	16	6	10	19
Specific rights	6	4	2	9
Financial aspects	5	5	–	–
Interpersonal relations	11	7	4	6
Environment and material resources	15	10	5	14
Total	**59**	**34**	**25**	**52**

* Excluding complaints whose processing was interrupted

The greatest number of complaints about CHSLDs involve technical and professional aspects of care and services, accounting for 40% of the well-founded complaints. Dissatisfaction was with the quality of nursing care and assistance, medication and the approach of staff to persons having cognitive difficulties. Next come complaints relating to the organization of the environment, material resources and interpersonal relations. Complaints in the category of specific rights mainly involve the right to complain, and free and informed consent to care.

A number of grounds for dissatisfaction for a citizen

A citizen complained about the services provided to her mother, a CHSLD resident. The grounds for complaint focused on accompaniment, lack of staff, physical organization of the premises, quality of care, involvement of the family and availability of physicians.

After analyzing the file, the Québec Ombudsman found that the situations brought to its attention to which it was able to attest could have been avoided had the institution implemented the ministerial orientations. The majority of its recommendations tallied with these orientations.

The absence of intervention plans for residents of the centre

During an investigation, the Québec Ombudsman noted that a residential centre had not drawn up intervention plans for its residents. It considered that this was a significant shortcoming and mentioned this to the management of the centre. The centre's managers attributed the delay in introducing this practice to the numerous administrative upheavals that they had experienced. Although sensitive to this argument, the Québec Ombudsman insisted that the situation be remedied in the interest of residents.

The Act obliges institutions to formulate an intervention plan for each of their residents, in order to identify the resident's needs, objectives, methods, and the expected duration of the period during which services will have to be provided. This plan must also provide for coordination of the various actors involved in the provision of these services.

Clearly, regardless of the cause, delays in implementing the ministerial orientations compromise the creation of an appropriate living environment for CHSLD residents.

REPORTS

Results of the Review of Grounds for Complaint

Report Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Accessibility of care and services	2	1	1	1
Clinical and professional aspects of care and services	6	5	1	2
Specific rights	3	1	2	2
Financial aspects	–	–	–	–
Interpersonal relations	3	3	–	–
Environment and material resources	8	6	2	5
Total	**22**	**16**	**6**	**10**

* Excluding the grounds for reports referred to regional agencies and those whose processing was interrupted

CHSLDs were at issue in 7 notifications for a total of 22 reasons. The Québec Ombudsman came to the conclusion that, to remedy the situation, corrective measures were required for 6 of the reasons. Out of the 10 corrective measures identified, it formulated 9 recommendations, while the 10th measure is an undertaking by the institution. All the corrective actions have been implemented and carried out by the authorities concerned to the satisfaction of the Québec Ombudsman.

MAIN PROBLEMS

Of all the reasons for notification that put CHSLDs at issue, 63.6% (14 out of 22) fall into two categories. The greatest number of reasons involving the mission of a CHSLD fall into the category of environment and material resources (8 out of 22), or 36.3%. Among other things, problems had to do with the security of the premises and of persons, hygiene and salubrity, and the quality and variety of food. Clinical and professional aspects and specific rights each accounted for 27.3% (6 out of 22) of reasons.

URGENT ACTION REQUIRED

Quality assessment visits, complaints and notifications concerning CHSLDs revealed that a number of them are experiencing difficulties. The nature and importance of problems vary from one institution to another. In some cases, a number of difficulties were found. The result is situations in which users do not receive the quality services to which they are entitled and situations in which the services are provided in an environment that does not meet all the standards needed to guarantee the safety and comfort of residents.

In light of these findings, the Québec Ombudsman considers that:

quality assessment visits to CHSLDs should be intensified and strengthened;

institutions that have not yet done so must, as rapidly as possible, implement the ministerial orientations designed to create a quality living environment for residents;

the Department should systematically assess the condition of residential facilities and, where required, make plans for their renovation;

the Department should ensure that objectives concerning the improvement of service quality are included in management agreements between health and social services agencies and CSSSs with reference to CHSLDs;

assessment visits should be made on an ongoing basis, be carried out in depth, and focus primarily on the creation of a quality living environment. In no event can these visits replace the Department's power of investigation in situations where its use is warranted.

Youth Centres

Youth centres are public institutions operating in every region of Québec which are responsible for intervening with young people under 18 living in situations that threaten their safety and development. These youths may be victims of negligence, abandonment, or physical or sexual abuse. They may also need help as a result of their own behaviour, for example, if they have committed a crime, have attempted suicide, have run away or are abusing drugs. The parents and family members of these youths, and others around them are important client groups for youth centres. Young mothers having difficulty coping, people looking for their biological antecedents and adoptive parents can also count on their support.

Every year, youth centres help over 100,000 young people and their families.

THE QUÉBEC OMBUDSMAN ENSURES RULES ARE FOLLOWED

The Québec Ombudsman has second instance jurisdiction over youth centres, that is, it intervenes when a user is dissatisfied with the decision of a local commissioner. However, it can also act as a first instance for any report brought to its attention. It can intervene quickly in the violation of rights and correct situations in which a child—or his or her parents—is not receiving quality and appropriate services and care. It cannot question a decision made by the Director of Youth Protection regarding a child's situation or review its validity. The decision to investigate a report is one of the exclusive responsibilities of the Director under *A Youth Protection Act*. However, the Québec Ombudsman can study the work of those who intervene to ensure that rules and processes generally applied in similar cases are respected.

SOME PROBLEMS INTENSIFYING WHILE OTHERS EMERGE

Over the last year, the Ombudsperson met the management of the Association des centres jeunesse du Québec and directors of youth centres in the region of Québec City, the Lower St. Lawrence and the Montérégie. She visited rehabilitation centres, a day centre for dropouts and different sites for youth in protection. During these visits and interviews with the directors of centres, she noted that problems are getting worse, and the number of clients is increasing; youth centres have to work very hard to deal with the situation.

The prevalence of mental health problems among an ever increasing proportion of children in need of protection has been observed in a number of the centres visited. But dealing with youths who suffer from mental health problems, often very serious ones, requires more intensive, specialized medical and social services that are appropriate to this reality.

Furthermore, stakeholders told the Ombudsperson that the health and social services reform has made partners less available for the joint action necessary to deliver services. They hope soon to be able to devote their time to updating clinical projects for youths in difficulty. Over the next year, studies and further visits will provide the Québec Ombudsman with a clearer picture of the situation.

Stakeholders reported to the Québec Ombudsman that street gangs and the recruiting of youths have an impact on their client groups. Working committees have been created, with representatives from the Youth Court, police services, CLSC workers and streetworkers, to improve interventions in this area.

COMPLAINTS REVIEWED BY THE QUÉBEC OMBUDSMAN

In 2006-2007, the Québec Ombudsman studied 37 complaints regarding youth centres. There were 77 grounds for complaint.

The following table shows the breakdown of grounds for complaint reviewed by category and the number of corrective measures developed for each.

Results of the Review of Grounds for Complaint

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Access to care and services	10	10	–	–
Clinical and professional aspects of care and services	43	34	9	20
Individual rights	15	10	5	6
Financial aspects	2	2	–	–
Interpersonal relations	5	4	1	1
Physical environment and resources	2	1	1	1
Total	**77**	**61**	**16**	**28**

* Excluding grounds whose processing was interrupted

Clinical and professional aspects of care and services generate the most complaints.

Of the 77 grounds for complaint examined, slightly over a dozen involved a child's circumstances. These mainly had to do with the availability and quality of services offered by a foster family, and isolation and support measures for youths. The other complaints related to the parents' situation.

COMPLAINTS FROM YOUTHS

The Québec Ombudsman receives few complaints from youths in protection, in spite of the fact that youth centres devote a significant proportion of services and interventions directly to young people. This year, only two youths complained directly to the Québec Ombudsman. Almost all complaints are made by parents, even when they concern the youth's situation. This is nothing new; for several years, statistics from the Health and Social Services Ombudsman have shown the same problem. Furthermore, youth often complain to the local service quality and complaints commissioner about the institution's services or to the Commission des droits de la personne et des droits de la jeunesse.

Do youths understand their rights as users of health and social services? The Québec Ombudsman wonders about this and has studied the situation, paying particular attention to the conditions in which rights are exercised and the quality of services to one of the most vulnerable client groups.

COMPLAINTS FROM PARENTS

The most common grounds for complaints from parents are the respect of visitation rights and the management of supervised contact. The professional skills and attitudes of those who intervene are also a source of dissatisfaction. Parents criticize the lack of information, help, advice and assistance when the Director of Youth Protection is involved.

Given that people are often unhappy with the decisions of the Director of Youth Protection or a judge's order, the Québec Ombudsman is not satisfied merely explaining the limits of its ability to intervene. All complaints are carefully considered, even if a corrective measure does not result. The Québec Ombudsman reviews the situation, ensures that everything is in compliance and takes the time necessary to inform the person of the reasons for the Director of Youth Protection's decision or to explain the grounds for the judgment.

ACCESS TO SERVICES

Some parents' situations deteriorate because they do not receive the services they need in time, which can affect whether they retain or regain custody of their child. While access to care and services was not the largest area of complaint, the Québec Ombudsman is concerned about these parents' situations. By virtue of the new provisions of *A Youth Protection Act*, children in need of protection can be adopted more quickly. As such, if parents do not have timely access to the services they need, their ability to improve their parenting skills within a certain time frame can be compromised. Planning and regular follow-up on the intervention plan are essential in such situations.

In December 2005, the Québec Ombudsman presented a memorandum before a parliamentary commission as part of the study of Bill 125, *An Act to amend A Youth Protection Act and other legislative provisions*. In it, it recommended that Youth Court be able to order certain care and services for a child's parents, with the parents' consent. The recommendation was not included in the bill.

THE IMPACT OF THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

The recommendations of the Québec Ombudsman to youth centres can affect an individual, for example, when it recommends the assessment of a foster family or the appropriateness of changing a case worker. In most cases, its recommendations have a more general impact, and are intended to improve services for all children and their parents.

A case worker's bias has a negative effect

A woman reported having communication problems with a case worker from the Director of Youth Protection. She asked for a new case worker, because she no longer trusted the current one, claiming that the worker was close to the child's father.

The Québec Ombudsman reviewed the complaint. The facts revealed that professional distance had not been respected and that there was the appearance of bias for the father. It asked that there be a reminder issued regarding the code of ethics for such matters.

It also criticized the fact that the case worker did not develop a working relationship with the mother in over one year. No strategy was put in place to resolve the impasse, which delayed the woman's commitment to improving her parenting skills. As a result, the Québec Ombudsman recommended that the centre consider changing the case worker so that the woman's case could be handled more appropriately. Its recommendation was followed.

A mother reassured by the quality of her son's foster family

A woman whose son was placed in a family-type setting until he reaches the age of majority, in accordance with a judgment of the Youth Division, reported being dissatisfied with the services he was receiving. The mother wanted him to be transferred to another resource, alleging that the foster family was not responding to his needs and did not provide him with adequate services. Her criticisms had to do with health care, clothes, domestic tasks and lack of consideration for him.

The Québec Ombudsman helped clarify the grounds for the complaint. At the end of this exercise, the youth centre reassessed the foster family and found that it met the obligations and responsibilities set out in its contract. The review of the complaint showed that the child enjoyed a significant place within the foster family and that he received the attention he needed. This intervention also reassured the mother about her role in her son's life.

A RELATIONSHIP BASED ON PERSONALIZED AND ACCESSIBLE INFORMATION

The dissemination of information in a personalized, accessible manner is central to the relationship between services provided by the Director of Youth Protection and one of its client groups, namely, parents. Those responsible for a child and those who make decisions about the child under *A Youth Protection Act* must ensure that parents understand information and explanations. They must also allow the child and parents to express their points of view and concerns, and to be heard at the appropriate moment.

A case worker is reminded of her responsibility regarding information

A woman complained to the Québec Ombudsman that she had not received explanations that would have allowed her to better understand the meaning of an intervention under A Youth Protection Act. A review of the complaint showed that the mother did not have all the information to which she was entitled, or the explanations to properly understand the evaluation process and the direction a case was taking. Notes in the child's file do not indicate whether the case worker informed the mother of the procedure in the event of disagreements with the decisions of staff from the Director of Youth Protection. As well, the representative did not ensure that the woman properly understood the information provided when the report was assessed. She did not advise her of her right to consult a lawyer. She did not take the time to go over her questions and concerns.

The Québec Ombudsman recommended that the youth centre remind the case worker of her responsibility toward the parent in this matter. The department manager of the youth centre reminded the case worker involved.

Rehabilitation centres

The mission of rehabilitation centres for physical and intellectual disabilities is to offer adjustment, rehabilitation and social integration services to people with specific needs. People may require these services because of a physical or intellectual disability or behavioural, psychosocial or family problems. These centres also provide services to alcoholics and drug addicts and offer support and guidance to those around them. Working with other players, rehabilitation centres must provide high-quality, ongoing, accessible health and social services in a manner that respects the rights of people with disabilities.

COMPLAINTS TO THE OMBUDSMAN

In 2006-2007, the Ombudsman reviewed 24 complaints. Of these, 14 related to intellectual disabilities, 7 to physical disabilities, 2 to hearing loss and one to a visual disability. 24 complaints involved 30 grounds.

The following table shows the breakdown of grounds for complaint and the number of corrective measures developed for each.

Results of the Review of Grounds for Complaint

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Access to treatment and services	12	6	6	8
Clinical and professional aspects of treatment and services	8	3	5	6
Individual rights	4	2	2	3
Financial aspects	3	2	1	1
Interpersonal relations	2	1	1	1
Physical environment and resources	1	–	1	7
Total	**30**	**14**	**16**	**26**

* Excluding complaints whose processing was interrupted

The majority of users complained about access to treatment. Many problems exist for children with pervasive developmental disorders and their parents. Some criticize the fact that services stop once the child is six years old, and others point to the total lack of services once a person reaches adulthood.

The second largest source of complaints is clinical and professional aspects of service. User dissatisfaction centres mainly on the professional judgment of those who provide services and the fact that the individualized intervention plan has not been executed.

To address these problems and prevent them from recurring, the Ombudsman has recommended the adoption of policies, better information for parents and increased dialogue among different bodies.

CORRECTIVE MEASURES AND COMMITMENTS FROM INSTITUTIONS

Around half of the corrective measures in response to complaints addressed an individual user's situation. This was the case, for example, for transfers to another institution, access to required services, the development of a service plan or the confirmation of the patient navigator. Other corrective measures were more systemic in scope. They mainly addressed dialogue between the rehabilitation centre and the CLSC, the improvement of information to users and parents as well as staff training.

Woman loses trust in a rehabilitation centre

The daughter of a complainant was staying at a resource under the responsibility of a rehabilitation centre two weekends per month to give her mother a break. Twice when the daughter returned from these weekends, the mother suspected that she had been sexually abused. Both cases were reported.

For the first report, the Ombudsman established that the director of the residence had not been clearly informed of the suspicions of sexual abuse, either by the parent or the CLSC social worker. However, notes in the file indicate that the parent had shared her suspicions with the social worker. The rehabilitation centre investigated, but there was no evidence of sexual abuse. The mother, however, was not reassured. Since then, she has lost trust in the centre and wants to transfer her daughter to another institution.

The Ombudsman maintains that the social worker had the duty to inform the director of the residence, to advise his immediate supervisor and to ensure that specific action was planned. Additionally, because the alleged victim was a minor, he was obliged to report the situation immediately of to the Director of Youth Protection, in spite of the lack of evidence or any sexual abuse. The Ombudsman recommended that the CLSC remind all staff involved in care of their obligations when there is an allegation of physical or sexual abuse. Its review of the file also revealed a lack of communication between the girl's school, the CLSC representative and the rehabilitation centre. As a result, the Ombudsman also recommended that an individualized service plan be developed, that a case manager be assigned and that a method be adopted for the three bodies to work together.

A few months later, for the second report, the parent contacted the director of the residence to complain. She also advised the CLSC social worker of the situation. The local service quality and complaints commissioner met the mother one month after her complaint and advised her take her daughter to a doctor immediately. The Ombudsman believes that this intervention should have occurred sooner. The nature of the complaint called for priority handling.

While the local commissioner examined the complaint in good faith, the Ombudsman has noted problems with the investigation and in applying its recommendations. It therefore asked the institution to develop a procedure to manage situations in which there has been an allegation of physical or sexual abuse and to send it a copy of the procedure. The management committee agreed to review regulations about this type of situation so that they reflect the Ombudsman's recommendations.

Given the circumstances, the Ombudsman understands why the mother has lost trust in this institution and believes that the request for a transfer is justified. It therefore recommended that the rehabilitation centre and the health and social service centre (CSSS) facilitate the transfer of the girl to another centre as soon as possible. The institution contacted another rehabilitation centre in the region and made an official request for a transfer.

Given the urgency of intervening in situations of abuse and the need to provide users with continuity and coordination of services, the Ombudsman believes that the chairs of the boards of directors of institutions should remind local and regional service quality and complaints commissioners of the priority of handling complaints in which there is a presumption of abuse of a person or group.

The Ombudsman reminds directors of rehabilitation centres that when several institutions, organizations or resources are involved in a single person's case, in accordance with article 103 of *An Act respecting health services and social services*, an individualized service plan should be developed.

Lifelong services

A parent complained that his adult son, who has a pervasive developmental disorder with no intellectual disability, was not receiving any services from a rehabilitation centre.

The review of the complaint revealed that users over five years old with pervasive developmental disorders do not receive direct services from the institution due to the lack of budget. And yet, this is contrary to the orientations of the Ministère de la Santé et des Services sociaux, which maintains that rehabilitation centres have the responsibility of offering a number of services, in particular adjustment, rehabilitation and social and professional integration services, as well as support for valued activities. Rehabilitation centres must also offer support to families.

The Ombudsman recommended that this client group's needs and the support needs of family members and close relatives be assessed. It asked the Agence régionale de la santé et des services sociaux to work with the centre to ensure that the services required are provided to users with pervasive developmental disorders, regardless of their age. The rehabilitation centre agreed to thoroughly review the services offered to this client group.

AN OMBUDSMAN INITIATIVE

To contribute to a comprehensive solution to problems of access to services, the Ombudsman is paying special attention to the situation of children with pervasive developmental disorders, with or without intellectual disabilities, including the impact on those close to them. It is currently conducting a study based on complaints from parents whose child has had difficulty obtaining services from the health and social services network, the care services network or the education network, after a pervasive developmental disorder has been diagnosed. This study is aimed at a rigourous and exhaustive gathering of documents pertaining to the problems and their causes, in an effort to propose concrete solutions for all people affected.

In the respect, the Ombudsman's approach is unique because it is based on a study of actual experiences and addresses every dimension of the issue. These situations serve both as a starting point and the thread to illustrate problems and to direct the search for realistic, adequate solutions.

The Québec Ombudsman has jurisdiction examine complaints from users who disagree with the conclusion of the regional service quality and complaints commissioner regarding a problem with a community organization, a pre-hospital emergency service or a regional agency. The Québec Ombudsman processed 36 complaints about these bodies, which are not public institutions under the law. The complaints involved a total of 53 grounds.

The following table shows the breakdown of grounds for complaint reviewed for these three types of bodies and the number of corrective measures developed for each.

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Community organizations	21	11	10	18
Pre-hospital emergency services	27	23	4	4
Regional agencies	5	4	1	1
Total	**53**	**38**	**15**	**23**

COMMUNITY ORGANIZATIONS

Under *An Act respecting health services and social services*, a community organization is a legal person constituted under an Act of Québec for non-profit purposes. It affairs are administered by a board of directors composed in the majority of users of the services offered by the organization or of members of the community served by the organization and its activities are related to the field of health and social services (article 334).

In 2006-2007, the Québec Ombudsman reviewed 9 complaints regarding community organizations. These complaints pointed to disrespectful attitudes of those involved in community organizations, poor quality food and ineffective rules and procedures for group living.

Complaints Reviewed by the Québec Ombudsman

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Access to treatment and services	1	1	–	–
Clinical and professional aspects of treatment and services	3	1	2	9
Individual rights	1	1	–	–
Financial aspects	3	2	1	1
Interpersonal relations	4	1	3	3
Physical environment and resources	9	5	4	5
Total	**21**	**11**	**10**	**18**

* Excluding complaints whose processing was interrupted

PRE-HOSPITAL EMERGENCY SERVICES

In 2006-2007, the Québec Ombudsman reviewed 21 complaints regarding pre-hospital emergency services. These had mainly to do with ambulance service, generally about bills for ambulance transport. Clinical and professional aspects came second and mainly point to the inadequate application of protocols by ambulance technicians.

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Access to treatment and services	2	2	–	–
Clinical and professional aspects of treatment and services	6	4	2	2
Individual rights	2	2	–	–
Financial aspects	15	14	1	1
Interpersonal relations	2	1	1	1
Physical environment and resources	–	–	–	–
Total	**27**	**23**	**4**	**4**

* Excluding complaints whose processing was interrupted

REGIONAL HEALTH AND SOCIAL SERVICES AGENCIES

While regional agencies do not provide services directly to users, they have certain specific responsibilities, such as the management of requests for admission to residential and long-term care centres, the application of the ministerial policy regarding moving users within their territory and the management of certain budgets for physical and financial assistance to users. In 2006-2007, the complaints about these agencies had mainly to do with financial matters. The dissatisfaction expressed had mainly to do with working conditions for employees who work under the *Chèque emploi service program*. In the regions where the Agency handles these complaints in the first instance, the time for ambulances to arrive also generated complaints.

In 2006-2007, the Québec Ombudsman reviewed 6 complaints regarding regional health and social services agencies.

Complaint Grounds	Number of Grounds*	Unsubstantiated Grounds	Substantiated Grounds	Number of Corrective Measures
Access to treatment and services	1	–	1	1
Clinical and professional aspects of treatment and services	–	–	–	–
Individual rights	–	–	–	–
Financial aspects	4	4	–	–
Interpersonal relations	–	–	–	–
Physical environment and resources	–	–	–	–
Total	5	4	1	1

* Excluding complaints whose processing was interrupted

Specific Issues

Specific Issues

The Québec Ombudsman has concluded that certain problems extending beyond the missions of various establishments and facilities can compromise the rights of users, or have an impact on equal access to services for citizens. Owing to the complaints received this year, particular attention was paid to the management of nosocomial infections and related risks, persons afflicted with mental health problems, the use of restraining devices, room costs, and access to physical therapy.

Risk management and nosocomial infections

NEW PARAMETERS FOR RISK MANAGEMENT

In December 2002, *An Act respecting health services and social services* was amended with the passage of Bill 113. The amendments, which relate in particular to the user's right to receive safe health services, came into force in January 2003.

By virtue of the amendments, institutions must disclose incidents and accidents, support users and those close to them, maintain a local register of these events and include in the user's file a report of any incident or accident that involves him.

The objective of these parameters is to encourage institutions to operate with greater transparency to increase trust in the health system. All of the proposed measures are intended to prevent recurrent operational problems and to underline the gravity of problems that do occur.

Every institution must set up a risk management committee responsible for identifying and analyzing potential dangers and for making appropriate recommendations to the institution's board of directors.

The watchdog committee analyzes recommendations from the local service quality and complaints commissioner, and the Québec Ombudsman and coordinates activities with other areas of the institution with regard to the quality of services. These recommendations address the quality, safety and efficiency of services, respect for users' rights and the handling of complaints. The committee also proposes responses to recommendations to the board of the directors in an effort to improve the quality of services to users.[1]

IT'S ALL IN HOW THE LAW IS APPLIED

In spite of the implementation of such parameters, the Québec Ombudsman has noticed that staff members do not always apply the law according to the intentions of the legislature, which is to improve service delivery and make it safer.

Incident and accident reports, for example, are an important risk management tool. But to contribute to continuous improvement in the quality of treatment and services, reports must be well documented. In its review of situations that were brought to its attention, the Québec Ombudsman noted that this is not always the case: either the report is incomplete, for instance, when someone falls or there is an error in the administration of medication, or the incident is not reported.

1/ Art. 181.0.3 (3°) *An Act respecting health services and social services*.

In addition to using risk management measures set out in the legislation, institutions must rely on prevention. They must make every effort to detect, control and reduce to its simplest teams the dangers that threaten users and staff members. The success of this strategy depends on integrating basic preventive practices in treatment and a change in attitude especially toward infection prevention.

Inadequate surveillance

A user suffering from Alzheimer's had spent several months in the hospital, awaiting a place in a residential and long-term care centre. The user's daughter believed that her father's environment was not appropriate to his condition. She reported that he had fallen and that she had not been informed of the accident. She alleged that there was inadequate surveillance.

The Québec Ombudsman recommended that the institution take appropriate measures to remind nursing staff of the duty to disclose any incident or accident to users or their representatives and to enter appropriate notes in their files. The hospital accepted this recommendation and implemented the proposed corrective measures.

MINISTERIAL ORIENTATIONS TO PREVENT AND CONTROL NOSOCOMIAL INFECTIONS

The prevention of infections is an important aspect of risk management. It requires ongoing attention in the organization of treatment and requires the implementation of effective bacteria control measures.

In 2006, the Ministère de la Santé et des Services sociaux developed an action plan on the prevention and control of nosocomial infections and a frame of reference for health care institutions. It also issued guidelines for hygiene and salubrity. In terms of housekeeping, the Department indicated that staff members must be trained in new techniques and that they must have appropriate equipment. It also emphasized the importance of carefully monitoring the application of these new methods, so that disinfection is performed according to recommended standards.

THE EFFECTS OF STAFF SHORTAGES ON HYGIENE

While in 2006-2007 nosocomial infections proliferated and reached worrisome levels in some institutions, the Québec Ombudsman received few complaints about them, as they were generally dealt with at the level of local commissioners. In light of the complaints it did review, it has noted that the ratio of infection control nurses to the number of beds is not respected in certain institutions. In principle, there should be one nurse per 100 beds in highly specialized care, one nurse per 133 beds in general and specialized care and one nurse per 250 beds in residential and long-term care.

In 2006, the Québec Ombudsman conducted verifications within two institutions following complaints regarding cleanliness. Users were concerned that the lack of cleanliness would encourage the spread of nosocomial infections. The hospital centres implemented new sanitary maintenance techniques and increased the number of hours spent on maintenance. The Québec Ombudsman welcomed these hygiene measures.

SUPPORT EMPLOYEES AND REPEAT INSTRUCTIONS

In its review of complaints, the Québec Ombudsman recommended that institutions ensure that staff members fill out incident and accident reports and place them in the user's file. It asked them to support their employees through training so that they can comply with the requirements of the law.

With regard to nosocomial infections, the Québec Ombudsman emphasizes the need to respect the ratio of infection control nurses proposed in the *Cadre de référence à l'intention des établissements de santé du Québec*. It reminds institutions of their duty to update their prevention and control program for nosocomial infections. To this effect, it insists that the rules regarding hand washing and other matters be respected and that instructions be reiterated regularly to staff members.

DISPARITIES IN THE IMPLEMENTATION OF MINISTERIAL ORIENTATIONS

On November 17, 2006, the Ombudsperson wrote to the Deputy Minister of Health and Social Services to share her comments on the proliferation of nosocomial infections such as *Clostridium difficile*. Based on complaints she received on this matter, she informed him of the disparities in the implementation of ministerial orientations regarding the control of this type of infection. She asked that the Department take short-term concrete measures throughout Québec.

Given the great concern this question raises among the public, in particular among vulnerable people, she recommended that the Department adequately inform the public and users of the health and social services network. The information should address tangible and normal measures for preventing the spread of these infections. The Deputy Minister welcomed her input and confirmed the Department's intention to continue in its efforts.

The prevention of infections within one mental health unit

During a stay in a mental health unit at a hospital, a user pointed out that the measures in place to prevent nosocomial infections seemed unrealistic given the mental health of the client group.

For example, patients waiting the results of a screening test for MRSA[2] were not confined to their rooms. They circulated freely on the unit and ate with other patients. They did, however, have a dedicated toilet. The user believed that the proximity of these patients during meals encouraged the spread of infection. He does not believe that frequent hand washing and the dedicated toilet were sufficient measures.

The review showed that the hospital took measures to confine patients awaiting screening test results in an isolated part of the dining room. It was also in compliance with the infection prevention measures recommended in the guidelines from the Ministère de la Santé et des Services sociaux. Furthermore, while it did not have a mental health standard, various specialists agree that psychiatric care hospitals should respect a minimum ratio of one infection control nurse per 250 beds. The Québec Ombudsman recommended that the hospital respect this ratio. The institution increased the number of infection control nurses.

2/ MRSA (methicillin-resistant Staphylococcus aureus) is a staphylococcus that has developed a resistance to a number of antibiotics including methicillin.

Persons with mental health problems: full citizens

RESPECT FOR THE RIGHT TO INTEGRITY

An Act respecting the protection of persons whose mental state presents a danger to themselves or to others is a law of exception because its measures authorize the confinement of a person against his will. Without these provisions of exception, there would be unjustified infringement of fundamental human rights, including the right to freedom and integrity. The conditions of the application of this law must be respected.

A person's right to integrity and inviolability is provided for in the Civil Code of Québec. It is a fundamental right granted by the Québec and Canadian charters of human rights. In health care institutions, staff must obtain the free and informed consent of the user for treatment or intervention. If the user cannot consent, staff must obtain the consent of the person responsible for representing him. In the user's interest, if there is an emergency that places his life or integrity in danger, the institution may proceed without this consent. In the same spirit, the user cannot be confined to a health care institution without his consent. Only courts or express provisions of the law allow for the confinement of a person to an institution against his will.

The law provides for three types of confinement: preventive confinement, temporary confinement and regular confinement. Preventive confinement allows a physician to exceptionally confine a person for up to 72 hours. The physician may decide that he believes that the mental state of the person presents a grave and immediate danger to himself or to others. The two other types of confinement require the authorization of the court in the absence of the person's consent.

Furthermore, the law requires the institution to provide certain information to the person placed or held in confinement and grants him the right of recourse to contest decisions made on his behalf before the Tribunal administratif du Québec.

THE QUÉBEC OMBUDSMAN'S PERSPECTIVE

The Québec Ombudsman is regularly called upon to intervene and ensure that the rights of citizens who suffer from mental health problems are respected. Some 15 complaints and a number of reports are received in any given year, which shows that some hospital workers have difficulty seeing that the provisions of the law are applied. And yet, these difficulties compromise the respect of the rights of the citizens involved.

THE APPLICATION OF THE LAW

For institutions, the application of the law is a daily challenge that involves the practices, attitudes and culture of those who work there. It also raises the question of the physical organization of facilities and the organization of services. In reviewing complaints, the Québec Ombudsman has noted that the conditions of preventive confinement are not always respected and that treatment is given without the user's or the representative's consent. The review also revealed that citizens are billed for services received against their will while other users are refused services based on the sectorization of services.

PREVENTIVE CONFINEMENT: CONDITIONS ARE NOT ALWAYS RESPECTED

Preventive confinement is a medical decision that must be duly documented by the physician. The conditions of this type of confinement are set out in law. The file must in particular mention the date and the time when the decision becomes effective. It should also indicate that the period of confinement cannot exceed 72 hours and that the director of professional services must be advised immediately.

In light of complaints it has received, the Québec Ombudsman has realized that worrisome clinical practices have developed outside of the prescriptions of the law.

In some cases, the use of vague terminology allows institutions to delay the beginning of the 72-hour period until the moment the patient physically attempts to leave. Rather than using the official term "preventive confinement," some files include statements such as "restrictive course of treatment," "the patient may not leave without seeing the doctor" or "patient under close, constant surveillance." Only once the user tries to get away or in some other way clearly demonstrates his desire to leave the emergency room will he be prevented from doing so by staff. Then he is placed in confinement or isolation, which marks the beginning of the patient's official confinement, even though it actually began much earlier.

In reality, these users are kept in a locked area without their knowledge. They are watched and cannot leave the institution during the period determined by the physician, although they have not been formally placed in preventive confinement. Aside from the ambiguity of their true status, these users are not informed that they have been placed in confinement, the reasons for this confinement or of their right to contact someone close to them or a lawyer. And yet they are entitled to this information by law.

CARE WITHOUT CONSENT

A user's blood taken against his will

A user who was in preventive confinement complained to the Québec Ombudsman because staff collected blood in spite of his repeated refusal, when there was no urgent reason for doing so. And yet, the right to keep a person against his will authorizes only confinement and surveillance. In such circumstances, the institution must obtain the user's consent for examinations, the collection of samples, treatment or other interventions.

A psychiatric evaluation on the basis of presumed consent

The Québec Ombudsman also reviewed the complaint of a user who submitted to a psychiatric evaluation without having given his express consent. The institution took the consent for granted to some extent and did not inform the user of the consequences of the assessment for his rights. The effect of this omission was that the user was switched from preventive confinement to regular confinement, without court authorization to perform his psychiatric evaluation.

Institutions followed almost all of the Québec Ombudsman's recommendations with regard to complaints about the application of *An Act respecting the protection of persons whose mental state presents a danger to themselves or to others*. Nevertheless, the Québec Ombudsman sees the same grounds for complaint arise year after year. It believes that this breach in the application of the law on a day-to-day basis points to a major problem. While this type of complaint generally includes a medical component, namely questions regarding the decisions of psychiatrists, the Québec Ombudsman remains vigilant. To ensure that users' rights are respected, it intends to ensure that institutions and their directors of professional services accept their obligations and responsibilities with regard to the respect of rights.

THE NICOTINE PATCH: ANOTHER SITUATION WITH A RISK OF TREATING A PERSON WITHOUT CONSENT

Since the entry into force of the *Tobacco Act* in May 2006, health care institutions have policies and action plans to limit or prohibit the use of tobacco. Specific situations must be managed so as not to endanger the health of those who smoke. The Collège des médecins du Québec indicated in a guideline regarding the prevention and cessation of tobacco use published in 1999 that quitting smoking is as difficult as quitting drugs such as cocaine and heroine. According to certain specialists, many patients who suffer from mental health problems smoke more than the population in general.

The Québec Ombudsman is concerned about the effects of institutional choices on this matter on certain categories of users. It is concerned in particular about the equitable treatment of captive client groups, users who are being observed in a psychiatric unit for example. It is also concerned about measures taken to respect the rights of non-smokers.

In psychiatric units of certain hospitals, the alternative offered to smoking is the nicotine patch. However, this practice is not a medical panacea. In fact, the Québec Ombudsman has read guides written for physicians who prescribe the nicotine patch. These guides state that there are medical contraindications to the use of the patch. There is a contraindication for those with allergies to adhesive bandages or skin diseases, who have had a myocardial infarction or stroke in the preceding two weeks, who have arrhythmia or angina, for pregnant or lactating women and for those under 18.

This year, the Québec Ombudsman reviewed complaints it received on this issue.

Offer an alternative to captive client groups

In one situation in which the Québec Ombudsman was asked to intervene, it recommended that the institution propose measures other than the nicotine patch to users under observation in a psychiatric care unit. The institution refused to follow its recommendation. One of the reasons for this was clinical: people who are hospitalized cannot smoke outside because their psychiatric condition prevents them from going out.

Furthermore, the institution claimed that it could not create a smoking section in the unit because of the lack of space and the high cost of ventilation systems. The board of directors had already decided that capital budgets dedicated to health could not be invested to allow visitors, employees or patients to smoke. Finally, employees filed a complaint with the Commission de la santé et de la sécurité du travail asking for a ban on patients smoking to maintain a healthy work environment free of second-hand smoke.

Given that the use of the nicotine patch requires a medical prescription, the Québec Ombudsman considers it treatment. The user therefore has to freely consent to it, a right afforded him in the Civil Code of Québec. Consequently, the Québec Ombudsman recommends that institutions offer captive client groups other choices for meeting their nicotine needs. It believes that other measures must be available to deal with the situation of smokers admitted to a psychiatric unit for observation.

In an exchange of letters and discussions between the Québec Ombudsman and the Ministère de la Santé et des Services sociaux during 2006, it was agreed that the Department would intervene with institutions when it received reports of such situations. In March 2007, the Québec Ombudsman reported a situation involving an institution. The Department agreed to intervene to assess the matter.

AMBULANCE TRANSPORT

Two users contest ambulance fees

This year, the Québec Ombudsman received two complaints from citizens who did not agree with having to pay for ambulance transport. In both cases, it was the peace officer who decided to have them brought to the hospital by ambulance against their will for a psychiatric evaluation. In spite of this, the user is charged for these services.

In accordance with section 8 of the act, police officers have this power. In principle, they must use it when a member of a crisis intervention unit believes that the person's mental state presents a grave and immediate danger to himself or to others. In practice, at least in the greater Montréal area, police officers do not regularly call members of these units because of the number of situations that arise every day. Thus, the ambulance service acts directly on police authority to transport the person to the hospital.

The Québec Ombudsman made the Department aware of this situation. It learned that the Department is currently reviewing the entire law on a set schedule.

The Québec Ombudsman will monitor the review under way and will remain vigilant as to the directions it takes.

THE RIGHT TO CHOOSE A PROFESSIONAL OR AN INSTITUTION: SECTORIZATION IN MENTAL HEALTH

People with mental difficulties represent a particularly vulnerable client group. There are difficulties having provisions of the law respected and the respect of the person's right to choose the professional or institution to provide treatment and services. This freedom of choice is provided for in *An Act respecting health services and social services*.

Sectorization as it has been applied over the years, particularly in the greater Montréal area and in the Montérégie, illustrates this problem well.

Originally, as part of the rationalization of psychiatric services, sectorization was a non-constraining administrative rule to promote access to services to a given population. Thus, the user's postal code—namely his place of residence—determined the institution responsible for providing services. In many cases, sectorization became an obligatory avenue for psychiatric hospitals to systematically refuse users psychiatric services from another institution of their choice outside of their sector based on their place of residence.

Over the years, sectorization has become a topic of controversy and litigation, and its legality is increasingly called into question.

Since the reform initiated in 2003, health and social service centres are responsible for offering the public physical and mental health treatment in a manner that respects the free choice guaranteed by law. This reconfiguration of the health and social service network was to end sectorization. That was the Department's intention in 2003, and it has reaffirmed it since. In fact, on August 25, 2006, at the instigation of users and rights groups, the Department asked all directors general of regional agencies to promote access to services. They were asked to take "stringent measures" so that sectorization would not impede access to services in Québec.

Furthermore, the Québec Ombudsman is currently intervening based on a report by a rights group. The situation brought to its attention suggests that a hospital refused psychiatric services based on the fact that sectorization is no longer in effect. There have been two other recent reports of similar situations in the Montérégie area.

In closing, the Québec Ombudsman recognizes the difficulties involved in applying this law. However, in spite of these, the rights of citizens must be respected. To do so, problem situations must be properly documented and staff must receive ongoing training to change cultures and practices.

The use of force, isolation and chemical substances as a means to control people

THE SPIRIT OF THE LAW

The use of isolation and restraints is defined in article 118.1 of *An Act respecting health services and social services*. This article governs the use of force, isolation, or mechanical means or chemicals to place a person under control. It specifies that the use of such methods must be minimal and resorted to only exceptionally. The means used must take into account the physical and mental state of the person, and be used solely to prevent the person from hurting himself or someone else. The law requires that professionals who use such means include in the user's file a detailed description of the way the person was acting and the circumstances of the event. All institutions are required to have a protocol for applying such measures and must distribute it to their staff.

MINISTERIAL ORIENTATIONS AND ACTION PLAN

In 2002, four years after the adoption of article 118.1, the Ministère de la Santé et des Services sociaux made public its orientations regarding the exceptional use of control measures such as restraints, isolation and chemical substances. It set out the principles that must guide institutions as they develop a protocol for their use. The ministerial orientations specify that control measures must be used as a last resort and in a manner that is the least constraining possible for the patient, and that they be carefully supervised. The objective is to reduce as much as possible, or even eliminate, the use of physical and chemical restraint and isolation.

The same year, the Department produced an action plan to encourage institutions and workers to adopt its orientations, to refer to them for the appropriate use of control measures, and to measure their effect on the practice of restraint and isolation. This action plan contains concrete measures, particularly with regards to staff training. The Department involved regional agencies in this operation and consulted the Québec Ombudsman on the content of the program.

COMPLAINTS REVEAL A LACK OF RIGOUR

Complaints to the Québec Ombudsman about measures to place people under control come mainly from users within psychiatric units of general and specialized hospitals and from users who live in residential and long-term care centres. Reviews of these complaints point to the inappropriate application of certain aspects of ministerial orientations and the law. In a

few instances, the Québec Ombudsman noted that the measures used were not the least constraining under the circumstances. It also found situations in which file notes regarding the incident were incomplete and noticed that protocols for control measures are not always in line with ministerial orientations.

The recommendations the Québec Ombudsman made to institutions relate mainly to updating the policy on the use of restraints. It recommends providing staff training regarding maintaining a file and the use of restraints in a manner that respects article 118.1 of the Act.

THE TRAINING PROGRAM

In September 2005, the Ministère de la Santé et des Services sociaux gave a committee of experts the mandate to develop a training program for employees who work with clients in general or specialized hospitals, psychiatric hospitals, and residential and long-term care centres. The training is for managers, clinicians and other members of staff who may need to use control measures. In June 2006, the Ministère asked the Québec Ombudsman for its opinion on the document entitled *Formation sur la réduction de l'utilisation de la contention et de l'isolement*.

The Québec Ombudsman underlined the quality of the training material and made a few proposals regarding the fundamental rights of users. It asked that the training program further develop the legal aspects of using control and isolation measures. It believes it is essential to remind staff of the user's rights under the Charter of Human Rights and Freedom, the Civil Code of Québec and *An Act respecting health services and social services*.

It also believes that in terms of the rules of user consent, training should mention the risks of control measures and their prevalence. It should also cover alternative approaches to control measures, and their advantages and drawbacks with respect to a person's physical or psychological integrity. It believes it is important to include these elements in the list of information necessary for a free and informed decision. It also suggested clarifying the legal status of the user and rules regarding verbal refusal, the categorical refusal of a person of full age who is unable to consent to treatment, and the obligations of the institution when such a refusal occurs.

According to the Québec Ombudsman, the training program should define parameters to help staff identify situations that are a risk to the user or others; these parameters should be re-evaluated periodically. It pointed to the importance of the distinction between a legal emergency[1] and a medical emergency. It believes that the program would be more complete if it covered what constitutes an emergency. This suggestion was adopted.

The final point it raised relates to camera surveillance. It would like the Department to define the parameters for the use of video surveillance of people in isolation or under restraint.

The national training plan was finalized in October 2006. To date, 64 regional trainers have the expertise and could be multiplying agents among staff who work in their regions.

SPEED UP THE IMPLEMENTATION OF MINISTERIAL ORIENTATIONS

The Québec Ombudsman noted that although article 118.1 was adopted over eight years ago in 1998, isolation and restraint measures are still used often. It therefore believes that the application of the ministerial orientations should be accelerated.

Over the course of 2006-2007, the Québec Ombudsman observed a propensity to use particularly constraining measures in certain institutions, such as isolation and specific forms of restraint. Often, this approach was favoured over less invasive but more time-consuming approaches that offer greater respect for the dignity and integrity of the person.

An example of particularly constraining measures

A woman went to the emergency room accompanied by police officers. The physician requested protective custody, because she presented a danger to herself on account of her mental state. She was placed in an observation room under the constant surveillance of an orderly. She asked to go to the bathroom and then refused to go back to her room. A "code white"—an emergency measure for situations of aggression—was called immediately. Staff members undressed the patient in the hallway of the emergency room, placed an Argentino restraint jacket and an incontinence brief on her, and

1/ A legal emergency is different from a medical emergency. A legal emergency requires two concurrent conditions. It is defined as a situation in which "the life of the person is in danger or his integrity is threatened and his consent cannot be obtained in due time" (art. 13 of the *C.C.Q.*). For a situation to be considered a legal emergency, action must be required quickly, and it must also be impossible to obtain the consent of the person or his representative to proceed.

put her in isolation. A few days later, in the psychiatric care unit, the same patient took a soft drink from a visitor. The nursing staff again called a "code white" and isolated her because of her unacceptable behaviour.

After examining the complaint regarding these events, the Québec Ombudsman noted that the file did not mention aggressive behaviour during the "code white." It also remarked that the restraints remained in place for four hours, while the observation notes state that the woman was calm. It recommended to the Centre de santé et de services sociaux that it stop using the Argentino jacket. This form of restraint must be used only in extreme circumstances, because there is a very high risk that it will hinder breathing.

The Québec Ombudsman asked the Centre to update the knowledge of nursing staff and the emergency and psychiatric care unit medical staff regarding:

- the policy of exceptional use of measures of control;
- consent of the user or his representative;
- alternative measures;
- evaluation tools for the potential for danger and risk of suicide;
- observation notes when a person is restrained or put in isolation.

The Québec Ombudsman insisted that the institution comply with the board of director's policy and implement a monitoring mechanism for control measures which includes feedback to the treatment team.

It also recommended that health care staff who work in emergency and in the psychiatric care unit be trained in the Omega approach. This approach is recognized for its effectiveness in crises. The Québec Ombudsman recommended that there be sufficient staff trained in this approach on each shift. It also required that the Centre distribute the "code white" procedure regarding aggressive and dangerous behaviour from the emergency plan to all staff.

THINGS ARE MOVING

Following the intervention of the Québec Ombudsman, the institution took several corrective measures. In particular, it stopped using Argentino restraint jackets.

The board of directors approved an action plan for implementing its policy on the exceptional use of control measures. The Centre also held awareness sessions for managers and staff. The policy was distributed to staff, and 20 training sessions have taken place for day, evening and night staff.

As part of the *Programme national de formation sur l'utilisation des contentions et de l'isolement* disseminated in fall 2006 by the Department, the institution designated two people as trainers.

The Centre has acquired surveillance tools for the use of control measures and implemented them in care units in December 2006. It has also designed statistical forms to better track the use of these measures.

Finally, the institution started basic Omega training for emergency and psychiatric care unit staff. Nursing staff will soon be trained on the escalation of potential dangers and the risk of suicide.

The Centre showed a clear desire to correct problems in this situation and to improve the quality of services. The Québec Ombudsman is following up on its recommendations closely.

Rates for private and semi-private rooms in hospital centres

THE IMPORTANCE OF SPECIFYING RULES FROM THE OUTSET

The Québec Ombudsman believes that users' choices are decisive in establishing rates for hospital rooms. For users to be able to make informed choices, the institution must inform them in advance of the options available, the cost of their choices and their right to change those choices.

To avoid further confusion regarding room fees, the Québec Ombudsman has made recommendations to institutions about which it has received complaints. These institutions have been asked to develop or review their forms for choosing rooms with clearer and more complete information and to provide users with a copy. The information users need to make the right decision includes the three types of rooms available (ward, semi-private or private room) and the associated rate. This form must be dated and signed by the user or his representative.

Furthermore, the Québec Ombudsman has recommended that institutions explain to users:

- that it is their responsibility to check their insurance coverage regarding hospital room charges. If their insurer does not pay the bill, the user will have to.
- that they can change their choice of room at any time during their hospitalization.
- that the use of one bed on a ward is free and that there is a charge for a private or semi-private room.
- that if they ask for a private room and the institution assigns them to a semi-private room, they will pay the rate for the semi-private room.

In some cases, users cannot choose when they are admitted. This may occur if they go to the emergency room and are diagnosed by a physician who decides to isolate them in a private room when they are admitted. In this sort of case, it is the physician who has made the choice for the user. Since the user had no choice in the matter, the institution must not bill for the room for as long as isolation is necessary. In such circumstances, the Québec Ombudsman recommends cancelling the bill.

The *Regulation respecting the application of the Hospital Insurance Act* sets the standards that apply to private and semi-private rooms and their billing in hospital centres. Since the adoption of the regulation in 1981, new medical and social realities have prompted institutions to change and reorganize some of their facilities. But the regulation has not been reviewed, and institutions bill for private and semi-private rooms for stays in areas that users used to have free access to.

These changes have increased the number of private and semi-private rooms and reduced the number of beds on wards. As a result, sometimes when a user asks for a ward, he or she is assigned a semi-private room at no charge, whereas those who ask for a semi-private room have to pay for it. This situation creates an appearance of injustice.

After reviewing complaints on this matter, the Québec Ombudsman's opinion is that the interpretation of this regulation creates problems. Because the circumstances of today are very different from those of 26 years ago, the regulation has become cumbersome to apply. Certain situations highlight the difficulties in applying these rules, in particular when people have a private room at the physician's request or because the medical services required are only provided in private rooms. Here are a few examples that illustrate the problem.

INTENSIVE CARE

Previously, intensive care units were organized in large wards. As a result, stays in intensive care did not result in room fees, because beds on a ward are free. Today, more institutions are organizing intensive care and intermediate care units into private or semi-private rooms. Users who upon admission asked for a private or semi-private room must pay room fees if they stay in intensive care, and are unhappy paying these fees for a stay that is "medically required."

ISOLATION

Isolation in a private room is a common measure used by institutions to prevent the spread of nosocomial infections, as these infections extend hospital stays. As a result, users who have chosen a private or semi-private room complain when they receive a higher bill.

Some institutions have a policy of not billing for isolation in private or semi-private rooms in the event of a nosocomial infection. The Québec Ombudsman encourages this practice.

DELIVERY ROOMS

Since the appearance of midwives and the development of new approaches to the perinatal period, many deliveries take place in birthing rooms, which are designated as private rooms. In certain institutions, birthing rooms are the only place available for delivery. Women who ask for a private or semi-private room upon admission are unhappy being charged room fees for delivering in a birthing room, particularly once they realize that there is no other choice. The regulation states that the use of delivery rooms is free, but does not provide for the use of birthing rooms.

When the Québec Ombudsman has reviewed complaints on the matter, it points to the fact that birthing rooms have replaced delivery rooms. It recommends that the day of the delivery in a birthing room not be billed. For the other days, if the institution offers more than one type of room, birthing rooms, which are private, must be billed based on the user's choice upon admission. If the institution only offers birthing rooms, the service should be free as users are unable to choose.

PHONE SERVICE

In reviewing complaints, the Québec Ombudsman noted that certain institutions systematically bill for phone service. It believes that access to this service should be at the choice of the user. Unless it is included in the rate for the room requested and assigned, the institution cannot bill for it systematically.

REVIEW THE REGULATION AND USE STANDARD FORMS FOR THE CHOICE OF ROOM

Since the review of complaints reveals major differences in how the regulation is applied among institutions, it has become urgent to underline the difficulties in interpreting the *Regulation respecting the application of the Hospital Insurance Act* to the Ministère de la Santé et des Services sociaux. On March 1, 2006, the Health and Social Services Ombudsman drew the Department's attention to the lack of uniformity in the form for choosing rooms, to the importance of written information to allow the user to make an informed decision and to the need to review the regulation.

The Québec Ombudsman believes that the regulation must be updated to reflect new realities and that the form for choosing a room must be standard across institutions to provide the same information. Until the regulation is revised, the Department has committed to issuing directives to hospital centres to encourage a more consistent interpretation of the regulation throughout the network.

On January 17, 2007, the Department provided the Québec Ombudsman with a draft of a circular with instructions for directors general of institutions regarding billing for hospital rooms. The text addresses issues it had raised. On February 23, 2007, the Québec Ombudsman shared its positions and comments on the draft with the Department and informed it that it would take the draft into account in its review of complaints and recommendations.

The Department has just confirmed that it agrees with the recommendations of the Québec Ombudsman and that it will instruct hospitals accordingly.

Access to physiotherapy services

In the consultation document *Guaranteeing Access: Meeting the challenges of equity, efficiency and quality* published in February 2006, the Minister of Health and Social Services proposed measures for access to specialized medical services. In December of the same year, the adoption of Bill 33, *An Act to amend the Act respecting health services and social services and other legislative provisions*, made their application official. And yet there are questions about the possible impact of these measures on rehabilitation services that are not directly targeted.

The delivery of rehabilitation services may have been provided for in agreements with affiliated specialized clinics. In such cases, clinics offer services, and the public system covers the costs. However, more people having access to elective hip and knee surgery will result in an increase in demand for rehabilitation services in the public network. And yet, because of the lack of staff and the difficulties that institutions face in recruiting, there are already major waiting times for rehabilitation services.

WAIT OR PAY FOR PRIVATE SERVICES

Throughout Québec, services are provided according to prioritized waiting lists. Complaints made to the Québec Ombudsman reflect this reality. Thus, users who go to hospital centres learn that the hospitals give priority to hospitalized patients and those who have undergone surgery. When users consult externally upon the recommendation of their physician, they are generally asked to go to a private rehabilitation clinic at their expense. Those who do not do so can wait more than a year for an appointment.

YIELDING ONE'S PLACE TO A PRIORITY USER

The coexistence of the hospitalization insurance system and other public insurance systems, such as those administered by the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail, has an impact on the delivery of rehabilitation services.

People who are hospitalized are naturally priority clients for physiotherapy services provided by hospitals. Clients who benefit from plans administered by the Société de l'assurance automobile du Québec and the Commission de la santé et la sécurité du travail can count on physiotherapy services offered in hospitals or private clinics according to service agreements.

Less fortunate citizens, most of whom do not have private insurance, cannot turn to the private sector and must be entered on waiting lists. The Québec Ombudsman believes that a portion of client groups, in particular users who consult externally, suffer a form of inequity.

PROVIDING EQUITABLE CARE TO USERS

In May 2006, the Ombudsperson presented her comments to the Commission parlementaire des affaires sociales as part of the general consultation on the document regarding health services entitled *Guaranteeing Access: Meeting the challenges of equity, efficiency and quality*. She expressed her concerns regarding the impact of new measures for access to specialized medical services on already extremely long waiting lists for rehabilitation services. She made members of the National Assembly aware of the lot of users who do not have private insurance or who are not considered priorities under the public insurance system. Finally, she reminded them of the importance for uninsured users of access to rehabilitation services through the public network or a clinic in their region, once surgery is performed in the private network.

The Ombudsperson recommended that the Minister begin considering the difficulties of access to rehabilitation services to ensure that users are treated equitably, according to their real needs and without consideration for the system that pays for these services.

In fall 2006, the Ombudsperson once again presented comments to the Commission parlementaire des affaires sociales, as part of individual consultations and public hearings on Bill 33. She recommended that the Minister of Health and Social Services work with the bodies concerned to establish an action plan to address problems of access to rehabilitation services.

After surgery, a second waiting period

A woman underwent surgery to implant a prosthetic knee in Québec City in mid-March 2005 and returned to her home in an outlying area on March 24. Before leaving, hospital staff informed her that the CLSC that served her sector was advised of the follow-up required with regard to her medication and that the hospital in her region had been advised of her physiotherapy needs.

On March 30, having received no news from the hospital, she contacted the hospital and learned that the request for physiotherapy had in fact been received and that she would have to wait to be contacted for an appointment. On April 2, the woman, concerned that she still hadn't received a call, phoned the hospital again. The person she spoke to told her that there was not enough staff to offer service more quickly and suggested that she file a complaint.

On April 5, a physiotherapist called and offered to do her assessment that same day at her home. However, five minutes before the appointment, the physiotherapist cancelled. She informed the woman that there were only seven hours available for assessing patients at home and that she would not have time to visit. Finally, the physiotherapist was only able to go to her home on April 13.

On September 19, during a follow-up visit to her orthopedist in Québec City, he told her that a second operation would be necessary, given the state of healing. The surgery was performed on March 26, 2006. The woman believes that the long waiting time to obtain post-operative physiotherapy affected the healing of her knee. She complained to the Québec Ombudsman.

She pointed out the fact that hospital employees receive physiotherapy services from the hospital as part of rehabilitation following work accidents. Given that there was an obvious shortage of employees in this area and that resulting waiting lists are very long, the woman asked whether it was appropriate to offer such services to hospital employees.

The difficulties raised by this complaint correspond to a period in which there was a major increase in waiting lists for physiotherapy in a Centre de santé et de services sociaux for external clients and those at home.

Problems arise more particularly with regard to post-hospitalization services, when the status of a client changes to become an external client or client at home. The budget for at-home follow-up, including physiotherapy and the physical rehabilitation technician, covers only seven hours per week of service.

The shortage of specialized resources in this field and the difficulty—even impossibility—of recruiting outside of major centres, considerably increases the pressure on the team, which has to meet all needs. For example, the institution took three years to have a full-time, permanent position in occupational therapy.

To ensure maximum service delivery to all types of clients, the institution developed a new work plan based on a system of rotating and pairing staff members. This organization of the workload ensures the versatility of professionals by encouraging the development of new skills and exchanges among specialized resources. Furthermore, the new formula provides coverage during holidays and vacations.

Given the shortage of staff to respond to all the demands of the different client groups, the management of the institution did away staff precedence for with physiotherapy services. Given that they can use their insurance, employees who need rehabilitation services are sent to private resources.

Aside from the rotation of staff, the institution added hours of service, created corridors of services and imposed more rigorous follow-up on requests for services. In spite of the implementation of these measures, the institution is still unable to meet all the needs in all sectors of physiotherapy. As a result, it has reviewed its waiting list and re-evaluated files that are still active to place them in order of priority for treatment.

At the end of its analysis, the Québec Ombudsman noticed that changes in the organization of physiotherapy services encouraged better case management. While users are still waiting for answers or for services, efforts to improve the quality of service are notable. The woman in question noticed a real improvement after her second knee operation. She underwent surgery in Québec City on March 20, 2006, and she was at home on March 26. The very next day, on March 27, a physiotherapist evaluated her at home.

The corrective measures requested by the Québec Ombudsman following this complaint made it possible for the institution to significantly improve access to and continuity of physiotherapy services.

Treatment, but at what price?

A woman who was suffering from a capsulitis of the shoulder was sent by her physician to an orthopedist at a hospital in November. The orthopedist manipulated the shoulders under general anesthetic. Then the orthopedist sent the woman to a physiotherapist. From November to March, she received regular physiotherapy from the institution twice a week and did exercises at home.

In March her condition stagnated, and the physiotherapist recommended that she stop treatment and consult her doctor, which she did in April. Her doctor, who does not practice at the hospital, prescribed physiotherapy combined with joint distension injections.

When the woman contacted the institution for an appointment, she learned that there was a one-year wait. She had to take medication to relieve the pain. In spite of this, the suffering became difficult to endure and limited her in her daily activities. She therefore borrowed money to undergo physiotherapy in a private clinic. She also consulted the institution's pain clinic. Still battling the pain in her shoulders, she turned to a physiatrist who prescribed x-rays and ultrasounds. In September, she met with her doctor again and was sent for treatment appropriate to her condition based on test results.

In filing a complaint with the Québec Ombudsman, the woman hopes to help improve access to physiotherapy services. She also asked for the reimbursement of expenses incurred for physiotherapy treatments and joint distension injections obtained in the private sector.

The physiotherapy services offered by this institution are comparable to those in other regions of Québec. Throughout the province, there are waiting lists, and clients obtain services by priority. People who are hospitalized and those who have undergone surgery receive services quickly. However, the wait for a person who consults externally through a medical referral and requires physiotherapy is over one year. External clients are informed of this wait, and many people are advised to go to a private clinic. However, the Québec Ombudsman notes that the institutions are trying through various means to recruit the specialists who are lacking in this sector to respond to all needs.

For this file, it should be noted that the Québec Ombudsman cannot respond to a request for reimbursement for expenses incurred in the private sector. The complaint examination procedure provided for in *An Act respecting.health services and social services* and *An Act respecting the Health and Social Services Ombudsman* is intended to ensure that users' rights are respected and to promote the ongoing improvement of quality of service.

In closing, the Québec Ombudsman believes that the waiting time for access to rehabilitation after surgery is a major source of discomfort for users. These delays can compromise healing and therefore result in additional costs for health services and care. As a result, continuity among treatment and rehabilitation services is key to improving services to users and to the efficient use of resources.

Parliamentary Watch

4

Parliamentary Watch

PARLIAMENTARY WATCH: STUDY OF BILLS, DRAFT REGULATIONS AND PUBLIC CONSULTATIONS

The Québec Ombudsman keeps strict watch over bills tabled at the National Assembly and draft regulations published in *La Gazette officielle*. In conjunction with her delegates, the Ombudsperson reads all proposed legislation and intervenes after an analysis, if necessary. Such interventions can also be at the request of parliamentarians, and she can submit briefs to the parliamentary committees charged with studying draft legislation. She also comments on the draft projects directly to the ministers involved.

The Québec Ombudsman's actions in this regard are made in accordance to the provisions of section 27.3 of the *Public Protector Act*, which grant her the power to draw the government's attention to certain legislative, regulatory and administrative reforms that she deems of public interest. Her initiatives also comply with section 7 of *An Act respecting the Health and Social Services Ombudsman*, which mandates the Québec Ombudsman to oversee respect for the users of the health and social services network and the rights to which they are entitled.

This watch aims to identify provisions within these bills or draft regulations that could harm or be interpreted in a manner that would cause prejudice to citizens. It also seeks to identify related administrative, economic and social impacts. The Ombudsperson also checks whether recommendations or comments made by the Québec Ombudsman in its interventions have been followed up on and if applicable, will strive to maintain jurisdiction.

Interventions with a department or the National Assembly focus on highlighting possible amendments that could engender improvements and prevent prejudice to citizens, in line with the values espoused by the Québec Ombudsman: justice, fairness, good judgment and transparency.

DURING THE 2006-2007 YEAR

In 2006-2007, the Ombudsperson proceeded with 12 interventions subsequent to a review of bills or draft regulations.

COMMENTS ON FIVE SPECIFIC BILLS

The Ombudsperson submitted comments or observations to parliamentary committees with regard to the following bills:

An Act to amend the Act respecting off-highway vehicles (Bill 9);

An Act to amend the Crime Victims Compensation Act and other legislative provisions (Bill 25);

An Act to amend the Act respecting health services and social services and other legislative provisions (Bill 33);

An Act respecting the implementation of the Québec Energy Strategy and amending various legislative provisions (Bill 52).

The Ombudsperson submitted her comments to the minister in charge of spearheading the following Bill:

An Act to amend various legislative provisions concerning municipal affairs (Bill 55).

SEVEN DRAFT REGULATIONS ALSO THE OBJECT OF COMMENTS

The Ombudsperson also submitted her comments to the ministers or heads of agencies in charge of spearheading the following draft regulations:

Draft Regulation respecting insurance contributions (2006, *La Gazette officielle 2*, 1205A);

Individual and Family Assistance Regulation (2006, *La Gazette officielle 2*, 2577);

Draft Regulation amending the Regulation respecting fees exigible under the Highway Safety Code and the return of confiscated objects (2006, *La Gazette officielle 2*, 4927A);

Draft Regulation amending the Regulation respecting road vehicle registration (2006, *La Gazette officielle 2*, 4929A);

Draft Regulation amending the Regulation respecting licences (2006, *La Gazette officielle 2*, 4938A);

Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly (2006, *La Gazette officielle 2*, 5008);

Regulation under the Act respecting the Québec correctional system (2006, *La Gazette officielle 2*, 5170).

PUBLIC CONSULTATIONS OR INVITATIONS TO SPEAK

The Québec Ombudsman is regularly asked to share its thoughts at various consultations, either public or upon invitation, during the course of the year.

On May 25, 2006, the Ombudsperson gave her comments in front of the National Assembly's Parliamentary Committee on Social Affairs, mandated to study the white paper on access to health services produced by the Minister of Health and Social Services and entitled, "Guaranteeing Access: Meeting the Challenges of Equity, Efficiency and Quality."

Furthermore, on February 6, 2007, the Ombudsperson submitted her comments to the Minister of Justice task force created to review the compensation program for crime victims.

THE QUÉBEC OMBUDSMAN'S PROPOSALS

The nature and scope of the Québec Ombudsman's intervention as part of its parliamentary watch mandate are described in chapters 2 and 3 of this report, for each department, agency or health and social services establishment under its jurisdiction.

The majority of the recommendations submitted by the Québec Ombudsman were well received and led to changes to draft bills or to the introduction of various measures. The following results are described by theme, based on the Québec Ombudsman's actions and the values put forth.

"PROTECTING" VULNERABLE PERSONS OR PERSONS IN DIFFICULTY

Bill 25, *An Act to amend the Crime Victims Compensation Act and other legislative provisions*:

> The Ombudsperson emphasized a number of improvements, more specifically the increased indemnity paid to cover burial costs and the greater availability of rehabilitation and psychotherapeutic services for the close relations of crime victims. These were notably measures which had been recommended in previous years.
>
> The Ombudsperson successfully recommended that the definition of "close relations" be entrenched in the act, and not in a regulation. The definition adopted, moreover, is close to the one she favoured.

Regulation under the Act respecting the Québec correctional system:

> The Ombudsperson voiced her opinion on this significant draft regulation, which will give effect to the *Act respecting the Québec correctional system*. The government acted on several of her recommendations, notably agreeing to reiterate the principle whereby the deprivation of liberty and disciplinary sanctions are the only measures that can be taken with an incarcerated person.

The Minister of Public Security agreed to take several of the Ombudsperson's recommendations into consideration when drawing up the directives for application of the act and regulations. He further committed to submitting these for consideration and comments prior to their taking effect.

MAINTAINING AND PROMOTING AVENUES OF REDRESS FOR CITIZENS

Bill 52, *An Act respecting the implementation of the Québec Energy Strategy and amending various legislative provisions*:

> The Ombudsperson's recommendation that the Québec Ombudsman retain its jurisdiction over the Agence de l'efficacité énergétique, whose personnel will no longer be government employees, was accepted. The *Public Protector Act* was consequently amended to include the agency among the bodies subject to its jurisdiction.

Bill 55, *An Act to amend various legislative provisions concerning municipal affairs*:

> This Bill included a provision authorizing any municipality to name a person or organization to act as an ombudsperson and fill the role of "Protecteur du citoyen." The Ombudsman asked the Minister of Municipal Affairs and Regions to modify this title so that it would not be confused with that of the Québec Ombudsman – the "Protecteur du citoyen". The Ombudsperson is notably a person appointed by the National Assembly which has jurisdiction over departments, but not over municipalities.

The Bill was amended, and the Minister proposed adoption of the term "municipal ombudsman." Moreover, the Québec Ombudsman's offer to help draft a guide for those municipalities wanting to create such a role was accepted.

PROTECTION AND DISTRIBUTION OF PERSONAL INFORMATION

Regulation under the *Act respecting the Québec correctional system*:

The Ombudsperson ensured that the regulation's provisions regarding the delivery of mail to incarcerated persons complied with the provisions of the *Public Protector Act*, in the same manner as the processing of mail addressed to or from the institution. This ensures that mail is confidentially expedited as quickly as possible, with the contents kept secret.

Appendices

APPENDIX 1

DEFINITIONS TO BETTER UNDERSTAND THE DATA

Request for assistance and referral: Request where the Québec Ombudsman cannot intervene, either because it involves a body over which it has no jurisdiction or because it is a matter in the private domain. All complaints regarding the health and social services network must first be submitted to the appropriate local or regional body. The Québec Ombudsman can therefore direct a user to the first level of assistance if this initial step has not been taken.

Request for assistance: Request where the Québec Ombudsman's actions involve helping a citizen or user successfully exchange with a department, agency or body in the health and social services network.

Request for information: Request for services where the Québec Ombudsman concludes that the citizen or user is simply asking for information.

Request for services: Any request submitted to the Québec Ombudsman for the purpose of obtaining information, a referral or assistance, or to submit a complaint or report.

Request outside of jurisdiction: Request where the Québec Ombudsman concludes that the body or topic involved is not within its area of jurisdiction.

Request referred: While investigating the grounds of a complaint, the Québec Ombudsman identifies a possible outside solution and directs the citizen to the appropriate body. With regard to grounds of reports, these would be referred to regional agencies.

Request within its jurisdiction: Request which the Québec Ombudsman ascertains involves a department, agency or body in the health and social services network.

Investigation interrupted: The Québec Ombudsman, subsequent to its initial investigation, must interrupt its intervention for a reason provided for under the applicable legislation. An investigation can also be interrupted at the citizen's request or because a situation has been resolved in the interim.

Body: Department, government agency, health and social services network establishment (hospital, local community service centre, youth centre, nursing homes and long-term care establishment, rehabilitation centre), network agency (including community agencies under the *Act respecting health services and social services*), private home for the elderly, ambulance services business and detention centre.

Recommendation: Action requested of a body to correct an injury.

Complaint grounds: Reason for which the grievor is dissatisfied. A complaint can have several grounds.

Complaint: Dissatisfaction expressed by a citizen or group of citizens with regard to a service received or requested from a government official from a department or agency, or from an actor in the health and social services network over which the Québec Ombudsman has jurisdiction to take action. The service can involve a decision, an action or a practice that has or may harm or impinge on the rights of a citizen or user.

Substantiated complaint: Once the investigation is completed, it is shown that the citizen or user has been prejudiced. Whenever possible, the Québec Ombudsman submits recommendations to the body involved with the aim of correcting the situation.

Unsubstantiated grounds: Once the investigation is completed, it is shown that the citizen or user has not been prejudiced.

Collective scope: The Québec Ombudsman ensures that persons who have not contacted it but are in a similar situation will benefit from the correction implemented.

Individual scope: The Québec Ombudsman is successful in resolving a situation with regard to the person who contacted it.

Report: The fact of apprising the Québec Ombudsman of a situation that compromises the health or well-being of one or more users of the health and social services network. This report is submitted by a third party, i.e., not the user or his or her representative.

APPENDIX 2

ORIGIN OF COMPLAINTS RECEIVED BY PUBLIC ADMINISTRATIONS, BASED ON THE CITIZEN'S ADMINISTRATIVE REGION

Administrative region	Population[1]		Complaints	
	n	%	n	%
(01) Bas-Saint-Laurent	201,692	2.6	224	2.9
(02) Saguenay–Lac-Saint-Jean	274,095	3.6	191	2.5
(03) Capitale Nationale	671,468	8.8	1,302	16.9
(04) Mauricie	260,461	3.4	355	4.6
(05) Estrie	302,161	3.9	340	4.4
(06) Montréal	1,873,971	24.5	2,382	31.0
(07) Outaouais	347,214	4.5	276	3.6
(08) Abitibi-Témiscamingue	144,835	1.9	134	1.7
(09) Côte-Nord	95,948	1.3	77	1.0
(10) Nord-du-Québec	40,637	0.5	17	0.2
(11) Gaspésie–Îles-de-la-Madeleine	95,872	1.3	138	1.8
(12) Chaudière-Appalaches	397,827	5.2	254	3.3
(13) Laval	376,845	4.9	192	2.5
(14) Lanaudière	434,872	5.7	285	3.7
(15) Laurentides	518,621	6.8	530	6.9
(16) Montérégie	1,386,963	18.1	769	10.0
(17) Centre-du-Québec	228,049	3.0	162	2.1
Outside of Québec	–	–	59	0.9
TOTAL	**7,651 531**	**100.0**	**7,687**	**100.0**

1/ Source: Institut de la statistique du Québec, Profils des régions et des MRC. Estimation de la population totale par région administrative du Québec en 2006, January 31, 2007.

APPENDIX 3

ORIGIN OF COMPLAINTS AND REPORTS RECEIVED IN THE HEALTH AND SOCIAL SERVICES FIELD, BASED ON THE SOCIOSANITARY REGION OF THE BODY INVOLVED

Sociosanitary region	Population[1]		Complaints and reports	
	n	%	n	%
(01) Bas-Saint-Laurent	200,458	2.6	21	4.1
(02) Saguenay–Lac-Saint-Jean	274,186	3.6	15	3.0
(03) Capitale-Nationale	669,316	8.8	38	7.5
(04) Mauricie–Centre-du-Québec	484,466	6.4	40	7.9
(05) Estrie	302,901	4.0	21	4.1
(06) Montréal	1,894,575	24.9	152	30.0
(07) Outaouais	345,464	4.5	32	6.3
(08) Abitibi-Témiscamingue	142,974	1.9	12	2.4
(09) Côte-Nord	94,813	1.3	13	2.6
(10) Nord-du-Québec	14,999	0.2	4	0.8
(11) Gaspésie–Îles-de-la-Madeleine	94,681	1.2	27	5.3
(12) Chaudière-Appalaches	395,099	5.2	16	3.2
(13) Laval	368,503	4.9	16	3.2
(14) Lanaudière	419,207	5.5	19	3.7
(15) Laurentides	512,539	6.0	19	3.7
(16) Montérégie	1,364,287	17.9	62	12.2
(17) Nunavik	10,497	0.1	–	–
(18) Terres-Cries-de-la-Baie-James	14,118	0.2	–	–
TOTAL	7,603,083	100.0	507	100.0

1/ Source: Population data, Ministère de la Santé et des Services sociaux du Québec, Service du développement de l'information (SDI), August 2006.

APPENDIX 4

COMPLAINTS AND GROUNDS OF COMPLAINTS REVIEWED BY THE DEPARTMENT AND ORGANIZATION, BASED ON THE RESULTS

Departments and agencies	Complaints	Complaint Grounds				
		Substantiated	Unsubstantiated	Referred	Interrupted	Total
Agence de l'efficacité énergétique	–	–	–	–	–	–
National Assembly	2	–	–	–	2	2
Autorité des marchés financiers	10	1	8	1	2	12
Bureau d'audiences publiques sur l'environnement	–	–	–	–	–	–
Bureau de décision et de révision en valeurs mobilières	–	–	–	–	–	–
Centre de services partagés du Québec	2	–	4		–	4
Police Ethics Committee	3	–	1	–	3	4
Police Ethics Commissioner	31	–	12	–	29	41
Commissaire à la santé et au bien-être	–	–	–	–	–	–
Commissaire au lobbyisme	–	–	–	–	–	–
Commissaire de l'industrie de la construction	–	–	–	–	–	–
Commission administrative des régimes de retraite et d'assurances	33	3	21	–	10	34
Commission consultative de l'enseignement privé	–	–	–	–	–	–
Commission d'accès à l'information	14	7	7	–	6	20
Commission de la fonction publique du Québec	2	–	2	–	–	2
Kativik Environmental Advisory Committee	–	–	–	–	–	–
Commission de la santé et de la sécurité du travail	644	92	220	17	393	722
Commission de l'équité salariale	3	–	–	–	3	3
Commission de protection du territoire agricole du Québec	11	–	4	–	8	12
Commission des lésions professionnelles	65	2	10	3	50	65
Commission des normes du travail	77	3	38	5	31	77
Commission des relations du travail	15	–	4	–	11	15
Commission des transports du Québec	1	–	1	–	–	1
Commission d'évaluation de l'enseignement collégial	–	–	–	–	–	–
Commission municipale du Québec	1	–	–	–	1	1
Commission québécoise des libérations conditionnelles	21	1	7	1	12	21
Conseil consultatif de la lecture et du livre	–	–	–	–	–	–

Departments and agencies	Complaints	Complaint Grounds				
		Substantiated	Unsubstantiated	Referred	Interrupted	Total
Conseil consultatif du travail et de la main-d'œuvre	–	–	–	–	–	–
Conseil de gestion de l'assurance parentale	–	–	–	–	–	–
Conseil de la famille et de l'enfance	–	–	–	–	–	–
Conseil de la justice administrative	2	–	1	–	1	2
Conseil de la magistrature	1	–	–	–	1	1
Conseil de la science et de la technologie	–	–	–	–	–	–
Conseil de surveillance des activités de la Sûreté du Québec	–	–	–	–	–	–
Conseil des aînés	–	–	–	–	–	–
Conseil des relations interculturelles	–	–	–	–	–	–
Conseil du statut de la femme	–	–	–	–	–	–
Conseil du trésor (Secrétariat du)	5	–	–	–	5	5
Conseil permanent de la jeunesse	–	–	–	–	–	–
Conseil supérieur de la langue française	–	–	–	–	–	–
Conseil supérieur de l'éducation	–	–	–	–	–	–
Coroner	4	–	1	3	1	5
Public Curator	150	27	99	7	48	181
Fonds d'aide aux recours collectifs	–	–	–	–	–	–
Fonds d'assurance-prêts agricoles et forestiers	–	–	–	–	–	–
Institut de la statistique du Québec	–	–	–	–	–	–
Institut du tourisme et de l'hôtellerie du Québec	–	–	–	–	–	–
Financière agricole du Québec	3	1	2	–	–	3
Ministère de la Culture et des Communications	3	3	–	–	1	4
Ministère de la Famille, des Aînés et de la Condition féminine	19	4	8	3	6	21
Ministère de la Justice	116	34	39	9	40	122
Ministère de la Santé et des Services sociaux	18	2	5	–	13	20
Ministère de la Sécurité publique	2,902	511	1,088	1,026	685	3,310
Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	14	5	7	–	2	14
Ministère de l'Éducation, du Loisir et du Sport	212	54	110	9	50	223
Ministère de l'Emploi et de la Solidarité sociale	1,040	78	501	122	352	1,053
Ministère de l'Immigration et des Communautés culturelles	12	1	7	2	2	12
Ministère des Affaires municipales et des Régions	20	2	18	1	8	29
Ministère des Finances	29	–	15	1	13	29

Departments and agencies	Complaints	Complaint Grounds				
		Substantiated	Unsubstantiated	Referred	Interrupted	Total
Ministère des Relations internationales	1	–	–	1	–	1
Ministère des Ressources naturelles et de la Faune	43	3	25	3	24	55
Ministère des Services gouvernementaux	1	1	–	–		1
Ministère des Transports	48	2	11	14	23	50
Ministère du Conseil exécutif	–	–	–	–	–	–
Ministère du Développement durable, de l'Environnement et des Parcs	55	9	20	1	28	58
Ministère du Développement économique, de l'Innovation et de l'Exportation	1	–	1	–	–	1
Ministère du Revenu (Revenu Québec)	711	94	368	43	235	740
Ministère du Tourisme	–	–	–	–	–	–
Ministère du Travail	6	–	2	–	4	6
Office de la protection du consommateur	11	–	4	5	2	11
Office des personnes handicapées du Québec	4	–	3	–	1	4
Office des professions du Québec	3	2	1	–	1	4
Office québécois de la langue française	7	3	1	–	4	8
Régie de l'assurance maladie du Québec	222	11	132	6	78	227
Régie des alcools, des courses et des jeux	8	–	4	–	4	8
Régie des marchés agricoles et alimentaires du Québec	2	–	1	–	1	2
Régie des rentes du Québec	186	22	96	1	71	190
Régie du bâtiment du Québec	11	–	6	–	5	11
Régie du cinéma	–	–	–	–	–	–
Régie du logement	99	17	32	1	51	101
Registraire des entreprises	21	10	8	1	3	22
Services Québec	3	2	1	–	–	3
Société de l'assurance automobile du Québec	655	180	348	35	302	865
Société d'habitation du Québec	22	2	10	1	9	22
Administrative Tribunal of Québec	39	–	5	1	34	40
Québec Auditor General	–	–	–	–	–	–
TOTAL	**7,644**	**1,189**	**3,319**	**1,323**	**2,669**	**8,500**

APPENDIX 5

COMPLAINTS REVIEWED IN THE HEALTH AND SOCIAL SERVICES FIELD, BY BODY

Bodies in the health and social services network	n	%
Hospital centres	124	38.3
Local community service centres	71	21.9
Youth centres	37	11.4
Nursing homes and long-term care establishments	31	9.6
Rehabilitation centres	24	7.4
Emergency prehospital services	21	6.5
Community organizations	9	2.8
Regional agencies	6	1.8
Certified private nursing home facilities	1	0.3
Total	**324**	**100.0**

APPENDIX 6

GROUNDS OF COMPLAINTS REVIEWED IN THE HEALTH AND SOCIAL SERVICES FIELD, BY CATEGORY OF GROUNDS

Grounds	n
Availability of services and care	
- waiting time	42
- service delivery refused	16
- choice of establishment	9
- transfer	8
- choice of professional	9
- linguistic availability	5
- lack of services or resources	4
Total	**93 (16.7%)**
Clinical and professional aspects of care and services	
- treatment or intervention	84
- continuity	44
- technical and professional skills	25
- evaluation and professional judgment	21
Total	**174 (31.2%)**
Individual rights	
- droit de porter plainte	26
- dossier de l'usager et dossier de plainte	25
- information adéquate	11
- consentement aux soins	5
- participation de l'usager	1
- droit de recours	2
- droit à l'assistance	1
- autre	1
Total	**72 (12,9%)**
Interpersonal relations	
- right to file a complaint	17
- user file and complaint file	13
- adequate information	12
- consent for care	9
- user participation	6
- right of recourse	2
- right to assistance	1
- others	1
Total	**61 (11.0%)**

Motifs	n
Financial factors	
- room costs	17
- claim	12
- ambulance transportation costs	18
- financial and material assistance	6
- contribution to placement, accommodation	7
- fees for certain goods and services	6
- travelling expenses	12
- parking expenses	12
- medication costs	2
- non-resident billing	1
- special needs	1
- others	1
Total	**95 (17.1%)**
Environment and material resources	
- lifestyle rules and procedures	15
- security and protection	13
- comfort and convenience	7
- hygiene and salubrity	7
- space organization	7
- food services	5
- equipment and material	4
- clientele mix	2
Total	**60 (10.8%)**
Other complaint grounds	**2 (0.3%)**
TOTAL OF ALL COMPLAINT GROUNDS	**557[1] (100%)**

1/ This figure includes 58 grounds where the complaints were interrupted.

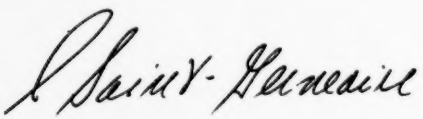
APPENDIX 7

REPORTS REVIEWED IN THE HEALTH AND SOCIAL SERVICES FIELD, BY PROGRAM / SERVICE

Service programs - clienteles	n	%
Loss of independence due to aging	50	69.4
Physical health	9	12.5
Intellectual disability and major development disorders	4	5.5
Troubled youth	3	4.2
Mental health	3	4.2
Addiction	3	4.2
Total	**72**	**100.0**

In my capacity as the Ombudsperson, I hereby confirm the accuracy of the data enclosed in this report.

The Ombudsperson



Raymonde Saint-Germain

LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

Québec City

Departments and agencies

525, boul. René-Lévesque Est, Suite 1.25
Québec City (Québec) G1R 5Y4

Telephone: 418 643-2688

Montréal

Departments and agencies

1, rue Notre-Dame Est, Suite 11.40
Montréal (Québec) H2Y 1B6

Telephone: 514 873-2032

Health and social services

500, boul. René-Lévesque Ouest, Suite 6.400
Montréal (Québec) H2Z 1W7

Telephone: 514 873-3205

Toll-free:
Telephone: 1 800 463-5070
Fax: 1 866 902-7130

E-mail
protecteur@protecteurducitoyen.qc.ca

Web site
www.protecteurducitoyen.qc.ca